

Rules and Regulations

Federal Register

Vol. 78, No. 194

Monday, October 7, 2013

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2013–0698]

RIN 1625–AA00

Safety Zone; Port of Galveston, Pelican Island Bridge Repair

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone in Galveston to maintain public safety during the Pelican Island Bridge Repair Project. This action is necessary to protect public boaters and their vessels from potential safety hazards. Entry into this zone is prohibited unless specifically authorized by the Captain of the Port of Houston-Galveston or a designated representative.

DATES: This rule is effective from October 1, 2013 to December 15, 2015.

ADDRESSES: Documents mentioned in this preamble are part of docket USCG–2013–0698. To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type the docket number in the “SEARCH” box and click “SEARCH.” Click on “Open Docket Folder” on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 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 email LCDR Xochitl Castaneda, Chief of Waterways Management Division, U.S. Coast Guard Sector Houston Galveston;

telephone (713) 671–5164, email Xochitl.L.Castaneda@uscg.mil. If you have questions on viewing or submitting material to the docket, call Barbara Hairston, Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

BNTM Broadcast Notice to Mariners
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of Proposed Rulemaking
TFR Temporary Final Rule

A. Regulatory History and Information

The Coast Guard is issuing this Temporary Final Rule (TFR) without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.” Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a Notice of Proposed Rulemaking (NPRM) with respect to this rule because publishing an NPRM and delaying the rule’s effective date would be contrary to public interest. The Coast Guard was notified about this repair project on April 14, 2013 therefore there was not enough time to publish an NPRM. During the repair project, a crane and barge will be placed under the Pelican Island Bridge; therefore immediate action is needed to protect public boaters and their vessels from potential hazards associated with this repair work.

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**. For the same reasons discussed in the preceding paragraph, waiting for a 30 day notice period to run would be impracticable and contrary to the public interest.

B. Basis and Purpose

The legal basis and authorities for this rule are found in 33 U.S.C. 1231, 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; and Department of Homeland Security Delegation No.

0170.1, which collectively authorize the Coast Guard to propose, establish, and define regulatory safety zones. The purpose of this safety zone is to protect public boaters and their vessels from potential safety hazards associated with the repair of the Pelican Island Bridge.

C. Discussion of the Final Rule

The Coast Guard is establishing a temporary Safety Zone in Galveston Channel to ensure public safety during the Pelican Island Bridge Repair Project. This area includes all waters of Galveston Channel under and around the Pelican Island Bridge, enclosed within the area extending 50 feet out from position 29°18′38.23″ N, 094°49′24.84″ W. Entry into this zone is prohibited unless specifically authorized by the Captain of the Port of Houston-Galveston or a designated representative from October 1, 2013 to December 15, 2015.

D. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes or executive orders.

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. 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 Homeland Security (DHS) because this regulation will only be enforced from October 1, 2013 to December 15, 2015. Notifications to the marine community will be made through Vessel Traffic Services and Broadcast Notice to Mariners. The impacts on routine navigation are expected to be minimal.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the

potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small business, 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 might be small entities: vessels intending to transit or anchor in the Galveston Channel from October 1, 2013 to December 15, 2015. This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: (1) Vessels are able to transit around the affected area; (2) vessels may request permission from the Captain of the Port to transit through the safety zone; and (3) the number of vessels affected by the safety zone is expected to be minimal.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the “**FOR FURTHER INFORMATION CONTACT**” section above.

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.

4. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

5. Federalism

A rule has implications for federalism under Executive Order 13132,

Federalism, if it has a substantial government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and determined that this rule does not have implications for federalism.

6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the “**FOR FURTHER INFORMATION CONTACT**” section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

7. 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 (adjusted for inflation) 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.

8. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

9. 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.

10. 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 does not create an environmental risk to health or risk to safety that may disproportionately affect children.

11. 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.

12. Energy Effects

This action is not a “significant energy action” under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

13. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. 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 determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves establishing a temporary safety zone in the Galveston Channel to maintain public safety during the Pelican Island Bridge Repair Project. This action is necessary to protect public boaters and their vessels. This rule is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, 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; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. A new temporary § 165.T08–0698 is added to read as follows:

§ 165.T08–0698 Safety Zone; Port of Galveston, Pelican Island Bridge Repair.

(a) *Definition.* As used in this section, *Public boaters* means all recreational boaters and their vessels.

(b) *Safety Zone.* This area includes all waters of Galveston Channel enclosed within an area extending 50 feet out from the position 29°18'38.23" N, 094°49'24.84" W. All coordinates are based on NAD83.

(c) *Effective date.* This rule is effective and will be enforced from October 1, 2013 to December 15, 2015.

(d) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into this zone is prohibited to all vessels except participant vessels and those vessels specifically authorized by the Captain of the Port, Houston-Galveston or a designated representative.

(2) Persons or vessels requiring entry into or passage through must request permission from the Captain of the Port, Houston-Galveston, or a designated representative. They may be contacted on VHF Channel 13 or 16, or by telephone at (713) 671–5103.

(3) All persons and vessels shall comply with the instructions of the Captain of the Port, Houston-Galveston, designated representatives 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.

Dated: September 23, 2013.

B.K. Penoyer,

Captain, U.S. Coast Guard, Captain of the Port Houston-Galveston.

[FR Doc. 2013–24321 Filed 10–4–13; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 130312235–3658–02]

RIN 0648–XC870

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Resources of the South Atlantic; Trip Limit Reduction

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; trip limit reduction.

SUMMARY: NMFS reduces the commercial trip limit for vermilion snapper in or from the exclusive economic zone (EEZ) of the South Atlantic to 500 lb (227 kg), gutted weight. This trip limit reduction is necessary to protect the South Atlantic vermilion snapper resource.

DATES: This rule is effective 12:01 a.m., local time, October 16, 2013, until 12:01 a.m., local time, January 1, 2014.

FOR FURTHER INFORMATION CONTACT: Catherine Hayslip, telephone: 727–824–5305, email: *Catherine.Hayslip@noaa.gov*.

SUPPLEMENTARY INFORMATION: The snapper-grouper fishery includes vermilion snapper in the South Atlantic and is managed under the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP). The FMP was prepared by the South Atlantic Fishery Management 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 622.

The commercial ACL (commercial quota) for vermilion snapper in the South Atlantic is divided into two, 6-month time periods, and is 466,480 lb (211,592 kg), round weight, for the January 1 through June 30, 2013, fishing season, and 466,480 lb (211,592 kg), round weight, for the July 1 through December 31, 2013, fishing season, as specified in 50 CFR 622.190(a)(4)(i)(A) and (a)(4)(ii)(A), respectively. Any unused portion of the January 1 through June 30, 2013, fishing season quota is added to the July 1 through December 31, 2013, fishing season quota, as specified in 50 CFR 622.190(a)(4)(iii). The unused portion of the January 1 through June 30, 2013, fishing season quota was 146,798 lb (66,586 kg), round weight. Therefore 146,798 lb (66,586 kg), round weight, was added to the July 1 through December 31, 2013 fishing season quota of 466,480 lb (211,592 kg), round weight, for a total of 613,278 lb (278,178 kg), round weight.

Under 50 CFR 622.191(a)(6)(ii), NMFS is required to reduce the commercial trip limit for vermilion snapper from 1,000 lb (454 kg), gutted weight, to 500 lb (227 kg), gutted weight, when 75 percent of the fishing season quota is

reached or projected to be reached, by filing a notification to that effect with the Office of the Federal Register, as implemented by the final rule for Regulatory Amendment 18 (78 FR 47574, August 6, 2013). Based on current statistics, NMFS has determined that 75 percent of the available commercial quota for the July 1 through December 31, 2013, fishing season, for vermilion snapper will be reached on or before October 16, 2013. Accordingly, NMFS is reducing the commercial trip limit for vermilion snapper to 500 lb (227 kg), gutted weight, in or from the South Atlantic EEZ at 12:01 a.m., local time, on October 16, 2013. This 500-lb (227-kg) trip limit will remain in effect until the quota is reached and the commercial sector closes, or through December 31, 2013, whichever occurs first.

Classification

The Regional Administrator, Southeast Region, NMFS, has determined this temporary rule is necessary for the conservation and management of South Atlantic vermilion snapper and is consistent with the Magnuson-Stevens Act, the FMP, and other applicable laws.

This action is taken under 50 CFR 622.191(a)(6) and is exempt from review under Executive Order 12866.

These measures are exempt from the procedures of the Regulatory Flexibility Act because the temporary rule is issued without opportunity for prior notice and comment.

This action responds to the best available scientific information recently obtained from the fishery. Pursuant to 5 U.S.C. 553(b)(B), the Assistant Administrator for Fisheries, NOAA, (AA), finds good cause to waive the requirements to provide prior notice and the opportunity for public comment on this temporary rule. Such procedures are unnecessary because the rule itself has already been subject to notice and comment, and all that remains is to notify the public of the trip limit reduction.