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Acting Manager, Transport Airplane

Directorate, Aircraft Certification Service.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 922

[Docket No. 010416096-1096-01]

RIN 0648-AP22

Revisions to Anchoring Prohibitions in the Flower Garden Banks National Marine Sanctuary

AGENCY: Marine Sanctuaries Division (MSD), Office of Ocean and Coastal Resource Management (OCRM), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Proposed rule.

SUMMARY: The National Oceanic and Atmospheric Administration (NOAA) proposes to amend the regulations governing the anchoring and mooring of vessels in the Flower Garden Banks National Marine Sanctuary (FGBNMS or Sanctuary). NOAA is proposing this change to conform the regulations to anchoring prohibitions adopted by the International Maritime Organization (IMO), at its December 6, 2000 meeting. NOAA is proposing to prohibit all anchoring and mooring in the Sanctuary with the exception that vessels 100 feet (30.48 meters) and under in length would be permitted to moor at sanctuary mooring buoys. The intent of this rule is to prevent further injuries to corals in the Sanctuary from anchoring impacts.

DATES: The agency must receive comments by June 14, 2001.

ADDRESSES: Comments concerning the proposed regulatory changes should be sent to G.P. Schmahl, Manager, Flower Garden Banks National Marine Sanctuary, 216 W. 26th Street, Suite 104, Bryan, Texas, 77803.

FOR FURTHER INFORMATION CONTACT: G.P. Schmahl (979) 779-2705, or Lisa Symons (301) 713-3141, ext. 108.

SUPPLEMENTARY INFORMATION:

I. Background

The Sanctuary consists of three separate areas of ocean waters over and

surrounding the East and West Flower Garden Banks and Stetson Bank, and the submerged lands thereunder including the Banks, in the northwestern Gulf of Mexico. The area designated at the East Bank is located approximately 120 nautical miles (nmi) south-southwest of Cameron, Louisiana, and encompasses 19.20 nmi². The area designated at the West Bank is located approximately 110 nmi southeast of Galveston, Texas, and encompasses 22.50 nmi². The area designated at Stetson Bank is located approximately 70 nmi southeast of Galveston, Texas, and encompasses 0.64 nmi². The three areas encompass a total of 42.34 nmi² (145.09 square kilometers). The area is unique among the world's coral reefs. The area contains the northernmost coral reefs on the North American continental shelf and supports the most highly developed offshore hard-bank communities in the region. It is also home to organisms unknown on the world's other continental shelves. These organisms are generally associated with a hypersaline, anoxic brine seep having a chemosynthetic energy base analogous to that found at deep-sea hydrothermal vents. The reefs in Flower Garden Banks crest at approximately 15 meters below the water surface and extend downward to 46 meters depth, where the hermatypic corals are replaced by reefal communities dominated by coralline algae and sponges. This deeper "algal terrace" covers most surfaces down to a depth of 90 meters. The area has at least 20 species of hermatypic (reef building) corals, 80 species of algae, 196 known macro-invertebrate species, and more than 200 fish species. The reef-building corals and coralline algae construct and maintain the substratum and, through a multitude of relationships, largely control the structure of benthic communities occupying the banks. As a primary building-block for the entire ecosystem of the banks, the coral and algae are by far the most important organisms in the Flower Garden Banks ecosystem.

Observations by Sanctuary staff, researchers and members of the diving public indicate that anchoring of large commercial ships, particularly internationally flagged vessels, has caused considerable damage to the corals and other resources of the Sanctuary despite existing domestic regulations prohibiting anchorage of vessels greater than 100 feet (30.48 meters). There is clear evidence of anchoring damage to Flower Garden Banks from large ships. Scars or tracks of pulverized coral have been documented by studies conducted by

submersibles and divers. The largest scar from anchoring found to date extends for approximately 1.7 kilometers and resembles a continuous, "roadcut-like" gouge into the bank. Another crater-like scar measures approximately 50 meters in diameter. Chain scars from the swinging of ships on their anchor chains are evident on many corals. There are hundreds of coral colonies abraded, fractured or toppled, apparently by the dragging of anchors or anchor cables and chains. Loose coral pieces act as agents of further injury to the living coral, particularly during heavy seas and storms as the pieces are repeatedly driven into and around the living coral. Coral such as that in Flower Garden Banks takes thousands of years to build. The regeneration of the reef from anchor damage may never occur. Even if optimal conditions for regeneration occur, it would still take hundreds and perhaps thousands of years for the reef to return to its pre-damage condition. Implementation of the proposed regulation and the restrictions on anchoring adopted by the IMO will prevent further injury to the coral and reef community.

Safety considerations also support establishment of this measure. The area is transited by commercial ships, many of which are en route to and from the U.S. ports in Texas and Louisiana. The safety of a ship can depend on the ability of its anchor to hold. The character of the bottom is of prime importance in determining whether an anchor will hold. Coral provides an unstable anchoring bottom. The scars and damage to the coral in this area are evidence that when deployed in coral anchors tend to drag along the bottom rather than hold in the coral. Additionally, there are a number of platforms and pipelines in this area it is very important from a safety perspective for ships to anchor only in areas where the bottom will provide good holding ground.

In July of 2000, the United States delegation to the IMO submitted a proposal to ban anchoring in FGBNMSs for vessels greater than 100 feet (30.48 meters). IMO, out of concern for impacts to corals, modified the proposal to prohibit all anchoring. Vessels 100 feet (30.48 meters) and under would be allowed to moor using Sanctuary mooring buoys. The new international measure would ensure that no-anchoring zones are marked on all charts internationally. This proposed rule would conform the Sanctuary regulations to the IMO action.

Recreational and commercial vessels 100 feet (30.48 meters) and under in

length use existing mooring buoys. There are currently 12 buoys on East and West Flower Garden Banks and 3 buoys on Stetson Banks. These will be supplemented by additional buoys if necessary.

The public has been involved in addressing the anchor damage issue and has sought greater protections within the Sanctuary. Prior to submission of the United States delegation's proposal to IMO, all relevant federal agencies were consulted and their comments were addressed. Public comment on this proposed rule is being solicited and will be considered prior to publication of any final rule.

II. Miscellaneous Rulemaking Requirements

National Marine Sanctuaries Act

Section 301(b) of the National Marine Sanctuaries Act, 16 U.S.C. 1434, provides authority for comprehensive and coordinated conservation and management of these areas in coordination with other resource management authorities.

National Environmental Policy Act

NOAA has concluded that this regulatory action would not have a significant effect, individually or cumulatively, on the human environment. Further, the action is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement in accordance with Section 6.05b.2 of NOAA Administrative Order 216-6. Specifically, this action is not likely to result in significant impacts as defined in 40 CFR 1508.27.

Executive Order 12866: Regulatory Impact

This action has been determined to be not significant for the purpose of Executive Order 12866.

Regulatory Flexibility Act

The Chief Counsel for Regulation of the Department of Commerce has certified to the Chief Counsel for Advocacy of the Small Business Administration that the proposed rule will not have a significant economic impact on a substantial number of small entities. Vessels 100 meters and under in length, which are those most likely to belong to small entities, would be allowed to moor using Sanctuary mooring buoys. The majority of users in this area are divers either on their own vessels or vessels operated by dive charter organizations in the area. The dive charter operations use the existing Sanctuary moorings and sine their

vessels are less than 100 feet in length, they are not likely to be affected by this rule. Most of the vessels subject to this rule are foreign flagged vessels that are owned or chartered by large corporations. There is no reason to expect that this regulation will have a measurable impact on the small business community. Accordingly, an initial regulatory flexibility analysis was not prepared.

Paperwork Reduction Act

This rule does not contain any collection of information requirements subject to the Paperwork Reduction Act.

List of Subjects in 15 CFR Part 922

Administrative practice and procedure, Coastal zone, Education, Environmental protection, Marine resources, Natural resources, Penalties Recreation and recreation areas, Reporting and recordkeeping requirements, Research.

(Federal Domestic Assistance Catalog Number 11.429 Marine Sanctuary Program)

Dated: May 9, 2001.

Capt. Ted I. Lillestolen,

Deputy Assistant Administrator for Ocean Services and Coastal Zone Management.

Accordingly, for the reasons stated above, 50 CFR part 922 is proposed to be amended as follows:

PART 922—[AMENDED]

1. The authority citation for Part 922 continues to read as follows:

Authority: 16 U.S.C. 1431 *et seq.*

Subpart L—Flower Garden Banks National Marine Sanctuary

2. Section 922.122 is amended by revising paragraphs (a)(2)(i) and (ii) to read as follows:

§ 922.122 Prohibited or otherwise regulated activities.

(a) * * *

(2) * * *

(i) Anchoring any vessel within the Sanctuary.

(ii) Mooring any vessel within the Sanctuary, except that vessels 100 feet (30.48 meters) or less in registered length may moor on a Sanctuary mooring buoy.

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG-105801-00]

RIN 1545-AX92

Capitalization of Interest and Carrying Charges Properly Allocated to Straddles; Hearing Cancellation

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Cancellation of notice of public hearing on proposed rulemaking.

SUMMARY: This document provides notice of cancellation of a public hearing on proposed regulations that clarify the application of the straddle rules to a variety of financial instruments.

DATES: The public hearing originally scheduled for May 22, 2001, at 10 a.m., is cancelled.

FOR FURTHER INFORMATION CONTACT: Treena Garrett of the Regulations Unit, Office of Special Counsel (Modernization & Strategic Planning), (202) 622-7180 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

A notice of proposed rulemaking and notice of public hearing that appeared in the **Federal Register** on Thursday, January 18, 2001, (66 FR 4746), announced that a public hearing was scheduled for Tuesday, May 22, 2001, at 10 a.m., in the Auditorium, Internal Revenue Service Building, 1111 Constitution Avenue, NW., Washington, DC. The subject of the public hearing is proposed regulations under sections 1092 and 263(g) of the Internal Revenue Code. The public comment period for these proposed regulations expired on May 1, 2001.

The notice of proposed rulemaking and notice of public hearing, instructed those interested in testifying at the public hearing to submit a request to speak and an outline of the topics to be addressed. As of Tuesday, May 8, 2001, no one has requested to speak. Therefore, the public hearing scheduled for Tuesday, May 22, 2001, is cancelled.

Cynthia E. Grigsby,

Chief, Regulations Unit, Office of Special Counsel (Modernization and Strategic Planning).

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