

CFR part or section where the information collection requirement is located	Current OMB control number (all numbers begin with 0648-)
* * * *	*
660.24	-0360
660.25	-0441
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660.305	-0355
660.322	-0352
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679.4(b),(f),(h) and (i)	-0206
679.4(d) and (e)	-0272
679.4(g) and (k)	-0334
679.4(l)	-0393
679.5(a)	-0213, -0269, -0272, and -0401
679.5(b),(c),(d),(g),(h),(i),(j),(k) and (m)	-0213
679.5(e),(f), and (o)	-0401
679.5(l)(1),(l)(2),(l)(3),(l)(4) and (l)(5)	-0272
679.5(l)(7)	-0398
679.5(n)	-0269
679.5(p)	-0428
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679.24(a)	-0353
679.24(e)	-0474
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679.28(b) and (d)	-0330
* * * *	*
679.32(c)	-0269 and -0330
679.32(d)	-0269
679.32(f)	-0269 and -0272
679.40	-0272
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679.43	-0272 and -0398
679.45	-0398
679.50	-0318
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679.61(c) and (f)	-0401
679.61(d) and (e)	-0393
679.62(b)(3) and (c)	-0401
679.63(a)(2)	-0330
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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD09-03-214]

RIN 1625-AA11

Regulated Navigation Area; Des Plaines River, Joliet, IL

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is revising the effective period for a regulated navigation area (RNA) on the Des Plaines River in Joliet, Illinois. This action is necessary to ensure vessel and public safety due to several serious allisions with this bridge structure. This rule is intended to restrict vessel traffic in a portion of the Des Plaines River near Joliet, Illinois.

DATES: Effective November 15, 2003. Section 165.T09-214 expires March 1, 2004.

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 docket [CGD09-02-214] and are available for inspection or copying at Coast Guard Marine Safety Office (MSO) Chicago, 215 W. 83rd St., Suite D, Burr Ridge, Illinois 60521 between 8 a.m. and 3:30 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: MST2 Kenneth Brockhouse, U.S. Coast Guard Marine Safety Office Chicago, at (630) 986-2175.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On May 21, 2003, we published a temporary final rule (TFR) entitled "Regulated Navigation Area; Des Plaines River, Joliet, Illinois" in the **Federal Register** (68 FR 27727). We received 25 letters commenting on that TFR which we have summarized in the *Discussion of Comments* section. We plan on addressing those comments in the notice of proposed rulemaking (NPRM). The only adjustment being made to the temporary § 165.T09-214 created by the May 21, 2003 TFR is the effective period. No public meeting was requested and none was held.

We are extending the effective period of the temporary final rule so that we can complete rulemaking CGD09-03-285 Regulated Navigation Area, Joliet, Illinois, to permanently establish restrictions on southbound tows

transiting the Des Plaines River through Joliet, Illinois. Past allisions with the Jefferson Street Bridge highlight safety concerns when certain tows transiting this area. Extending the effective period until March 1, 2004 should provide sufficient time to complete the rulemaking. Since the temporary rule was to expire November 15, 2003, we are reinstating and revising it effective November 15, 2003.

We did not publish a notice of proposed rulemaking (NPRM) for this rule and it is being made effective less than 30 days after publication in the **Federal Register**. When we promulgated the May 21, 2003 TFR, we were still ascertaining what steps were required in response to an allision just prior to that date. We received numerous comments in response to our temporary final rule as to what future actions were desirable.

Since public response to this temporary final rule was anticipated, we are currently finalizing an NPRM to be published shortly. That rulemaking will follow normal notice and comment procedures, and a final rule should be published before March 1, 2004.

Continuing the temporary final rule in effect while permanent rulemaking is in progress will help ensure the safety of this bridge structure. On May 2, 2003, a tow allided with the pier of the Jefferson Street Bridge which resulted in substantial damage to the bridge structure. As a result, it is estimated that the bridge will be inoperable for 4 to 6 months while repairs are made. The Captain of the Port Chicago believes that immediate action is necessary to help prevent any future allisions with the pier. Further, additional allisions might result in total structural failure, closure of the river for a period of time as a result of an allision, and the possible loss of life as a result of another allision. Prior to this accident, another tow had allided with the bridge, which resulted in a closure of over 6 months. These allisions are not only dangerous to the safety of navigation, but also to persons who are on the bridge as tows transit underneath. Therefore, under 5 U.S.C. 553(b)(B) and (d)(3) good cause exists for why an NPRM is not required and why this rule will be made effective fewer than 30 days after publication in the **Federal Register**.

Background and Purpose

On May 2, 2003, a southbound tow allided with the pier of the Jefferson Street bridge. This allision resulted in significant structural damage to the bridge pier. Southbound tows with a 3 by 5 configuration, transiting under the Cass Street Bridge and then the Jefferson Street Bridge, only have 100 feet of

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horizontal maneuvering room. In addition, the Des Plaines River regularly has significant current in this area.

In order to prevent future allisions, an RNA was established from the Ruby Street Bridge to the McDonough Street Bridge in which southbound tows in a 3 by 5 configuration must use an assist tug. This RNA is being established until an adequate protection cell is constructed around the bridge pier.

Discussion of Rule

Southbound tows greater than 89 feet in overall width and more than 800 feet in length must use an assist tug when transiting through the RNA. This RNA encompasses the Des Plaines River from mile 288.7 (the Ruby Street Bridge), to mile 287.3 (the McDonough Street Bridge). Deviation from this rule is prohibited unless specifically authorized by the Commander, Ninth Coast Guard District or his designated representative. His designated representative is the Captain of the Port Chicago.

Discussion of Comments

As of September 1, 2003, we received 25 written comments on the temporary final rule. All comments received generally focused on: (1) Length of Tows; (2) Width of Tows; (3) Protection Cells; (4) Tug Assist; (5) Economic Impact; and (6) Direction of Regulated Navigation Area.

Length of Tows. Several comments were received with the concern of length of tows. Three comments stated that the wording was confusing. Eight comments received wanted the length of tows shorter than described and 1 comment received stated that the length is too restrictive.

Width of Tows. We received eight comments stating that the width of tows should be reduced smaller and one comment stating that the width requirement is too restrictive.

Protection Cells. Nine comments were received stating that protection cells should be constructed along the Des Plaines River in the Joliet Harbor area.

Tug Assist. Eight comments were received stating that tug assists were not needed due to the channel being too narrow and that it would be too expensive. Three comments were in favor of tug assists.

Economic Impact. Economic Impact is divided into the impact felt by the maritime industry as well as the business district of Joliet Harbor. Eight comments were received by the maritime industry stating that the regulated navigation area will cause a loss in business due to the restrictions placed on number of barges allowed

through Joliet Harbor. Ten comments were received by the business' in Joliet stating that the regulated navigation area will protect the bridges and will allow uninterrupted flow of traffic from a bridge being down due to casualties caused by the maritime industry.

Direction of Regulated Navigation Area. We received 8 comments stating that the regulation should include northbound tows as well as southbound. Five comments were received stating the restriction should only be required for southbound tows.

Regulatory Evaluation

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory 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 Homeland Security. The operational reporting requirements of the RNA are minimal and necessary to provide immediate, improved security for the public, vessels, and U.S. ports and waterways. The requirements do not alter normal barge cargo loading operations or transits. Additionally, this rule is temporary in nature and the Coast Guard may issue an NPRM as it considers whether to make this rule permanent. The minimal hardships that may be experienced by persons or vessels are necessary to the national interest in protecting the public, vessels, and vessel crews from the devastating consequences of acts of terrorism, and from sabotage or other subversive acts, accidents, or other causes of a similar nature.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have 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 operators of southbound tows, in a 3 by 5 configuration, intending to transit through the RNA.

This RNA will not have a significant economic impact on a substantial number of small entities because this rule will only remain in effect until a protection cell can be erected or until other recommendations are provided which reduce the risk of allisions with the Jefferson Street Bridge.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under subsection 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), we offered to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process. 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 effect 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 does not create an environmental risk to health or risk to safety that may 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. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

We have analyzed this rule under Commandant Instruction M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and

have concluded that there are no factors in this case that would limit the use of categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2-1 paragraph (34)(g), of the instruction, from further environmental documentation because this rule is not expected to result in any significant environmental impact as described in NEPA. A final "Environmental Analysis Check List" and a final "Categorical Exclusion Determination" are 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, 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. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05-1(g), 6.04-1, 6.04-6, and 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Reinstate and revise temporary § 165.T09-214 to read as follows:

§ 165.T09-214 Regulated Navigation Area; Des Plaines River, Joliet, Illinois

(a) *Regulated Navigation Area.* The following waters are a Regulated Navigation Area (RNA): All portions of the Des Plaines River between mile 287.3 (McDonough St. Bridge) to mile 288.7 (Ruby Street Bridge).

(b) *Applicability.* This section applies to operators of all southbound tows transiting beneath the Jefferson Street Bridge (mile 287.9), Joliet, Illinois, with barge configurations of over 89 feet in overall width and more than 800 feet in length.

(c) *Effective dates.* This section is effective from 8 a.m., May 11, 2003, until March 1, 2004.

(d) *Regulation.* (1) All southbound tows to which this section applies must use an assist tug when transiting through the RNA.

(2) The general regulations contained in 33 CFR 165.13 apply to this section.

(3) Deviation from this section is prohibited unless specifically authorized by the Commander, Ninth Coast Guard District or his designated representatives. Designated representatives include the Captain of the Port Chicago.

Dated: November 10, 2003.

Ronald F. Silva,

Rear Admiral, U.S. Coast Guard, Commander, Ninth Coast Guard District.

[FR Doc. 03-28801 Filed 11-13-03; 3:54 pm]

BILLING CODE 4910-15-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[I.D. 111303B]

Atlantic Highly Migratory Species; Bluefin Tuna Fisheries

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

ACTION: Quota transfer; fishery closure.

SUMMARY: NMFS has determined that effective 11:30 p.m. local time on November 17, 2003, the Atlantic bluefin tuna (BFT) Angling category fishery will close in both the northern and southern management areas. NMFS also has determined that a BFT quota transfer from the General category to the Reserve category in the amount of 150 metric tons (mt) is warranted. These actions are being taken to ensure that U.S. BFT harvest is consistent with recommendations of the International Commission for the Conservation of Atlantic Tunas (ICCAT), pursuant to the Atlantic Tunas Convention Act (ATCA), to meet domestic management objectives under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), and to prevent overharvest of the 2003 Angling category quota.

DATES: Effective 11:30 p.m. local time November 17, 2003 through May 31, 2004.

FOR FURTHER INFORMATION CONTACT: Brad McHale at 978-281-9260.

SUPPLEMENTARY INFORMATION:

Regulations implemented under the authority of the ATCA (16 U.S.C. 971 *et seq.*) and the Magnuson-Stevens (16 U.S.C. 1801 *et seq.*) governing the harvest of BFT by persons and vessels subject to U.S. jurisdiction are found at 50 CFR part 635. Section 635.27 subdivides the U.S. BFT quota recommended by ICCAT among the various domestic fishing categories, and together with General category effort controls are specified annually under 50 CFR 635.23(a) and 635.27(a). The final initial 2003 BFT Quota and General