

Spring, MD 20993-0002, email: [AskCTP@fda.hhs.gov](mailto:AskCTP@fda.hhs.gov).

**SUPPLEMENTARY INFORMATION:** On January 9, 2017, the Food and Drug Administration (FDA or Agency) issued a final rule describing the circumstances in which products made or derived from tobacco are regulated as drugs, devices, or combination products. The rule also amended the “intended use” regulations found at 21 CFR 201.128 and 801.4. The rule was published with an effective date of February 8, 2017.

FDA bases this action on the memorandum of January 20, 2017 (82 FR 8346), from the Assistant to the President and Chief of Staff, entitled “Regulatory Freeze Pending Review.” That memorandum directed the heads of Executive Departments and Agencies to temporarily postpone for 60 days from the date of the memorandum the effective dates of all regulations that had been published in the **Federal Register** but had not yet taken effect, for the purpose of “reviewing questions of fact, law, and policy they raise.” FDA, therefore, is delaying the effective date of the rule that published on January 9, 2017 (82 FR 2193), to March 21, 2017.

To the extent that 5 U.S.C. 553 applies to this action, it is exempt from notice and comment because it constitutes a rule of procedure under 5 U.S.C. 553(b)(A). Alternatively, the Agency’s implementation of this action without opportunity for public comment, effective immediately upon publication today in the **Federal Register**, is based on the good cause exceptions in 5 U.S.C. 553(b)(B) and (d)(3). Seeking public comment is impracticable, unnecessary, and contrary to the public interest. The delay in the effective date until March 21, 2017, is necessary to give Agency officials the opportunity for further review and consideration of the new regulation, consistent with the memorandum described previously. Given the imminence of the effective date and the brief length of the extension of the effective date, seeking prior public comment on this delay would have been impracticable, as well as contrary to the public interest in the orderly issue and implementation of regulations.

Dated: February 2, 2017.

**Leslie Kux,**

*Associate Commissioner for Policy.*

[FR Doc. 2017-02485 Filed 2-6-17; 8:45 am]

**BILLING CODE 4164-01-P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 117

[Docket No. USCG-2016-1021]

#### Drawbridge Operation Regulation; St. Johns River, Jacksonville, FL

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of deviation from drawbridge regulation.

**SUMMARY:** The Coast Guard has issued a temporary deviation from the operating schedule that governs the Florida East Coast Railway Bridge, St. Johns River, mile 24.9, at Jacksonville, FL. The deviation is necessary to perform major bridge repairs. This deviation allows the bridge to remain in the closed-to-navigation position.

**DATES:** This deviation is effective from 7 a.m. on January 11, 2017 to 6 p.m. on February 10, 2017.

**ADDRESSES:** The docket for this deviation, [USCG-2016-1021] is available at <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 deviation.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this temporary deviation, call or email Mr. Rod Elkins, Seventh Coast Guard District, Bridge Branch; telephone 305-415-6989, email [Rodney.j.elkins@uscg.mil](mailto:Rodney.j.elkins@uscg.mil).

**SUPPLEMENTARY INFORMATION:** Florida East Coast Railway requested a temporary deviation from the operating schedule that governs the Florida East Coast Railway Bridge, St. Johns River, mile 24.9, Jacksonville, FL. The bridge is a single leaf bascule railway bridge with a five foot vertical clearance in the closed position. The deviation is necessary to perform major bridge repairs. The normal operating schedule for the bridge is found in 33 CFR 117.325 which indicates that the draw is normally in the fully open position, displaying flashing green lights to indicate that vessels may pass.

The deviation period is from 7 a.m. on January 11, 2017 to 6 p.m. on February 10, 2017. During this period, the bridge is allowed to remain closed to navigation from 7 a.m. to 11 a.m., and from 1 p.m. to 5 p.m. on January 11, 2017 from 7 a.m. to noon and from 2 p.m. to 5 p.m. on January 12, 2017 from 8 a.m. to noon, and from 2:30 p.m. to 6:30 p.m. on January 13, 2017 from 7 a.m. to 11 a.m., and from 1 p.m. to 5 p.m. on January 18, 2017 and January

19, 2017 and from 8 a.m. to noon, and from 2:30 p.m. to 6:30 p.m. on January 20, 2017. Additionally, the bridge will be allowed to remain closed to navigation from 7 a.m. January 30, 2017 through 6 p.m. on February 10, 2017.

The Coast Guard coordinated this closure period with the bridge owner and the waterway users. The bridge will be unable to open for emergencies; the small boat span can be used as an alternate route for vessels unable to pass through the bridge while in the closed-to-navigation position. The Coast Guard will also inform the users of the waterways through Local and Broadcast Notices to Mariners of the change in operating schedule for the bridge to ensure vessel operators can arrange their transits to minimize any impact caused by the temporary deviation.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the effective period of this temporary deviation. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: 18 January 2017.

**Barry Dragon,**

*Director, Bridge Branch, Seventh Coast Guard District.*

[FR Doc. 2017-02456 Filed 2-6-17; 8:45 am]

**BILLING CODE 9110-04-P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 117

[Docket No. USCG-2016-1026]

#### Drawbridge Operation Regulation; Perquimans River, Hertford, NC

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of deviation from drawbridge regulation.

**SUMMARY:** The Coast Guard has issued a temporary deviation from the operating schedule that governs the US17 (Perquimans) Bridge across the Perquimans River, mile 12.0, at Hertford, NC. This deviation is necessary to perform a bridge deck replacement project. This deviation allows the bridge to remain in the closed-to-navigation position.

**DATES:** This deviation is effective without actual notice from February 7, 2017 through 6 p.m. on March 17, 2017. For the purposes of enforcement, actual notice will be used from January 25, 2017 at 3:25 p.m., until February 7, 2017.

**ADDRESSES:** The docket for this deviation, [USCG–2016–1026] is available at <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 deviation.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this temporary deviation, call or email Mr. Hal R. Pitts, Bridge Administration Branch Fifth District, Coast Guard, telephone 757–398–6222, email [Hal.R.Pitts@uscg.mil](mailto:Hal.R.Pitts@uscg.mil).

**SUPPLEMENTARY INFORMATION:** The North Carolina Department of Transportation, that owns and operates the US17 (Perquimans) Bridge across the Perquimans River, mile 12.0, at Herford, NC, has requested a temporary deviation from the current operating regulations to perform a bridge deck replacement project. The bridge will be unable to balance during the bridge deck replacement project. As balance is required for safe operation of the moveable span, the bridge will not be capable of safe operation for the duration of the bridge deck replacement project. The bridge is a bascule draw bridge and has a vertical clearance in the closed position of 7 feet above mean high water.

The current operating schedule is set out in 33 CFR 117.835. Under this temporary deviation, the bridge will remain in the closed-to-navigation position from 8 a.m. on January 25, 2017, to 6 p.m. on March 17, 2017.

The Perquimans River is used by a variety of vessels including small public vessels, small commercial vessels, and recreational vessels. The Coast Guard has carefully coordinated the restrictions with waterway users.

Vessels able to safely pass through the bridge in the closed position may do so, after receiving confirmation from the bridge tender that it is safe to transit through the bridge. The bridge will not be able to open for emergencies and there is no immediate alternate route for vessels to pass. The Coast Guard will also inform the users of the waterways through our Local and Broadcast Notices to Mariners of the change in operating schedule for the bridge so that vessel operators can arrange their transit to minimize any impact caused by the temporary deviation.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the effective period of this temporary deviation. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: January 25, 2017.

**Hal R. Pitts,**

*Bridge Program Manager, Fifth Coast Guard District.*

[FR Doc. 2017–02457 Filed 2–6–17; 8:45 am]

**BILLING CODE 9110–04–P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket Number USCG–2016–0986]

**RIN 1625–AA00**

#### **Safety Zone; Ordnance Locations, Near Sugarloaf Key, FL**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Interim temporary final rule and request for comments.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone in the waters of the Florida Keys, near Sugarloaf Key, Florida. The safety zone is needed to protect safety of life, vessels, and the marine environment from potential hazards from recently discovered ordnance in two locations within the vicinity of American Shoal Light. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port (COTP) Key West or a designated representative.

**DATES:** This rule is effective without actual notice from February 7, 2017 until July 1, 2017. For the purposes of enforcement, actual notice will be used from January 17, 2017 until February 7, 2017.

Comments and related material must be received by the Coast Guard on or before March 9, 2017.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type USCG–2016–0986 in the “SEARCH” box and click “SEARCH.” Click on Open Docket Folder on the line associated with this rule.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or email Lieutenant Scott Ledee, Waterways Management Division Chief, Sector Key West, FL. Coast Guard; telephone 305–292–8768, email [Scott.G.Ledee@uscg.mil](mailto:Scott.G.Ledee@uscg.mil).

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Table of Abbreviations**

CFR Code of Federal Regulations  
DHS Department of Homeland Security  
FR Federal Register

NPRM Notice of proposed rulemaking  
Pub. L. Public Law  
§ Section  
U.S.C. United States Code

## **II. Background Information and Regulatory History**

On October 24, 2016, the Coast Guard received a report of discovered ordnance at two locations in the vicinity of American Shoal Light, near Sugarloaf Key, Florida. The United States Navy is now engaged in operations to survey and remove any hazards associated with the recently discovered ordnance.

The Coast Guard is issuing this temporary final rule 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 the Coast Guard did not receive notice of the unexploded ordnance operations until October 24, 2016. Publishing a NPRM and delaying its effective date would be impracticable and contrary to public interest because immediate actions are needed to protect the United States Navy divers, other vessels, and mariners from the hazards associated with the recovery of unexploded ordnance from the navigable waters of the Florida Keys, near Sugarloaf Key, Florida.

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 above.

## **III. Legal Authority and Need for Rule**

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1231. The COTP Key West, FL, has determined that potential hazards associated with detonating ordnance will be a safety concern for anyone within a 200-yard radius of positions 24°32.511' N., 081°29.051' W. and 24°32.501' N., 081°32.781' W. This rule is needed to protect safety of life, vessels, and the marine environment in the navigable waters within the safety zone.

## **IV. Discussion of the Interim Temporary Final Rule**

This rule establishes a safety zone immediately until the earlier of July 1,