have a significant effect on these vessels.

The vertical lift bridge has a vertical clearance of 22 feet above high water in the closed-to-navigation position and 50 feet above high water in the open-to-navigation position. No alternate routes are available. The closures are necessary for one phase of an on-going maintenance project to replace the lift span motors and brakes on the bridge. As this work is proposed during hurricane season, the work may be postponed and rescheduled, should any tropical storms or hurricanes enter or develop in the Gulf of Mexico. The Coast Guard has coordinated the closures with the commercial users of the waterway.

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

Dated: October 27, 2009.

David M. Frank,

Bridge Administrator.

[FR Doc. E9–27134 Filed 11–10–09; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2009–0595]

RIN 1625–AA00

Safety Zone; Munitions and Explosives of Concern (MEC); Seal Island, ME

AGENCY: Coast Guard, DHS.

ACTION: Final rule; removal of interim rule.

SUMMARY: This document removes the interim rule published on September 8, 2009 (74 FR 46011), which announced a permanent safety zone around Seal Island, Maine from the shoreline out to the 60 foot depth curve. The September 8, 2009 interim rule is being removed because a comprehensive survey of Munitions and Explosives of Concern (MEC) in the area has not been completed therefore the Coast Guard is unable to determine if the risk posed warrants permanent establishment of the safety zone. Given the potential negative economic impact of the safety zone created by the Interim Rule and the limited reporting of MECs, this rule cancels the safety zone by removing it as a regulation.

DATES: This rule is effective November 12, 2009.

ADDRESSES: Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG–2009–0595 and are available online by going to *http://www.regulations.gov*, inserting USCG–2009–0595 in the ''Keyword'' box, and then clicking ''Search.'' This material is also available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 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 e-mail Lieutenant Laura VanDerPol, Coast Guard Sector Northern New England, Waterways Management Division; telephone 207–741–5421, e-mail *Laura.K.VanDerPol1@uscg.mil*.

If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On September 8, 2009, we published an Interim Rule in the **Federal Register** (74 FR 46011), which announced a permanent safety zone around Seal Island, Maine from the shoreline out to the 60 foot depth curve. We received five comments as well as separate congressional communications on the interim rule. A public meeting was requested in two of the comments; those comments were also opposed to the interim rule; therefore, based upon this action removing the interim rule the Coast Guard does not now plan to hold a public hearing.

Due in part to the comments received and congressional inquiries, the Safety Zone created by the Interim Rule is being removed by this Final Rule. The Coast Guard intends to pursue public education about the MEC and conduct further analysis of both the risk to mariners and the economic impact of a safety zone around Seal Island.

The Coast Guard is issuing this 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 unexpected economic impacts on the fishing industry of the safety zone as expressed through the comments received on the Interim Rule and the concern expressed through the congressional communication indicates that it is in the public's interest to remove the safety zone regulation promptly without providing notice and an opportunity to comment. Further, as the Coast Guard has determined not to enforce the safety zone prior to a final rule, it is impractical and unnecessary to conduct a notice and comment section prior to issuing this final rule removing the safety zone regulation.

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**. This Final Rule removes the previously created Interim Rule published in the **Federal Register** on September 8, 2009 (74 FR 46011), effectively cancelling the safety zone established around Seal Island. As this rule removes a regulation, the Coast Guard finds that a delay in the effective date would be contrary to the public's interest in removing the restrictions in the regulation as soon as practical. Further, we have determined that a delay in the effective date to allow for public notification is unnecessary as the regulation created by the Interim Rule is no longer being enforced.

Background and Purpose

Seal Island is an uninhabited island of approximately 65 acres located to the east of Matinicus Island off of the coast of Maine. Seal Island was used as an aerial bombing and target range by the United States Government until the late 1960s. Seal Island was transferred to the U.S. Department of Interior in 1972. In the mid-1980s, Congress established the Formerly Used Defense Sites (FUDS) Program to clean up properties formerly owned, leased, possessed or used by the military services. Seal Island is designated a FUDS due to its prior military use. The Department of Defense established the Military Munitions Response Program (MMRP) to address DOD sites suspected of containing Munitions and Explosives of Concern (MEC). Under the MMRP, the U.S. Army Corps of Engineers is conducting environmental response activities at designated FUDS locations. As part of the environmental response activities of the MMRP, the U.S. Army Corps of Engineers is conducting site inspections

of FUDS. A site inspection (SI) for Seal Island was completed under the MMRP, Project No. D01ME003202. This site inspection is not a full scale study of the nature and extent of the MECs, rather it is limited to a terrestrial surface inspection only for MEC along with samplings in the areas most likely to contain munitions constituents. The SI concluded that a Remedial Investigation and Feasibility Study be performed at the site due to the past discovery of munitions and explosives of concern as well as the presence of munitions constituents, particularly heavy metals. Past MEC discoveries included an 8-inch live round artillery projectile and several 5-inch rocket warheads; additionally there was a report of an explosion(s) of MEC during a past brush-fire on the island. The Remedial Investigation and Feasibility Study has not been conducted, and given the remote location of Seal Island and the control of the island by the U.S. Fish and Wildlife Service, who restricts access, the additional study and investigation is unlikely to occur any time soon.

A danger zone currently exists around the island, but it is only to be enforced during times of active aerial bombing exercises, which no longer occur. The regulation for the danger zone can be found in 33 CFR 334.10. This Final Rule has no effect on the danger zone regulation.

In addition to Seal Island being a FUDS and the discovery of MEC on the island, in the summer of 2009 a private citizen diving near the island's shore reported observing multiple munitions on the sea floor. The type, number, and condition of munitions are unknown; however, that information along with concerns about the presence of MEC on the island led the Coast Guard to establish a safety zone for all of the navigable waters surrounding Seal Island out to the 60 foot depth curve. The Coast Guard was concerned that anchoring, fishing, trawling, diving or any other activity that could disturb the ocean floor might result in injury from MEC in the area. Following publication of the Interim Rule on September 8, 2009, which created the safety zone, comments were received from area commercial fishermen expressing concern over the considerable negative economic impact that this rule would have on them. Moreover, commercial fishermen expressed concern that the rule did not consider the fact they have not experienced any MEC.

The purpose of this Final Rule is to remove the Safety Zone around Seal Island that was created by the Interim Rule, thereby removing the restrictions on the public. In recognition that some risk remains, the Coast Guard may refocus efforts on public education of the existence of MEC on and around Seal Island and will encourage further analysis and investigation of Seal Island to better understand the risks involved.

Discussion of Comments and Changes

Thus far the Coast Guard has received five comments and two congressional communications on this Interim Rule. Four of the commenters stated that this rule will cause significant financial hardship for the lobstermen who make a living fishing the waters around Seal Island. One of the four commenters also stated that ''he has fished Seal Island now for 35 years; my father fished it before as well. He also lived on Seal with my mother and several other members of the family 1947–1950 and in the 65 years since it was last used for target practice, I know of no one ever finding an [sic] munitions or explosives''. A fifth commenter stated: ''Someone should consider contacting the Navy if not already done so the Navy can consider (stress consider) the proper course of action.'' The Coast Guard has considered this course of action and has made this recommendation to the FUDS project manager. The congressional communications requested that the Coast Guard withdraw this rule due to the fact that there is an unsubstantiated level of risk to the mariners and larger than expected economic impact on local fishermen. Removing this interim rule addresses the concerns raised through the congressional communications. The Coast Guard intends to pursue public education while encouraging other government agencies to conduct additional study and analysis of both the risk to mariners and the economic impact of a safety zone.

Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

Regulatory Planning and Review

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.

The Coast Guard determined that this rule is not a significant regulatory action for the following reasons: The Coast Guard is removing the safety zone which covered a portion of the navigable waters around Seal Island, thus, vessels may choose to operate in these previously regulated waters. The result of this Final Rule is to reduce the regulatory burden placed on the public.

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 owners or operators of vessels intending to transit, fish, dive, or anchor in a portion of the Gulf of Maine around Seal Island.

This final rule will not have a significant economic impact on a substantial number of small entities, as it removes the previously created safety zone that excluded these small entities from a portion of the navigable waters around Seal Island. As this rule removes the restriction, it will not have a significant effect on the small entities.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offer 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). 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.

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.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.,* specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

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

Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction. This rule involves the disestablishment of a safety zone. Under figure 2–1, paragraph (34)(g), of the Instruction, an environmental analysis checklist and a categorical exclusion determination are not required for this rule.

List of Subjects in 33 CFR Part 165

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

§ 165.180 [Removed].

■ 2. Remove § 165.180.

Dated: October 27, 2009.

J.B. McPherson,

Captain, U.S. Coast Guard, Captain of the Port Sector Northern New England.

[FR Doc. E9–27131 Filed 11–10–09; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Parts 564 and 571

[Docket No. NHTSA–2007–28322; Notice 3]

RIN 2127–AK66

Federal Motor Vehicle Safety Standards; Lamps, Reflective Devices, and Associated Equipment

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Final rule; delay of effective date.

SUMMARY: This final rule delays the effective date of a final rule that reorganized and improved the structure and clarity of the Federal motor vehicle safety standard on lamps, reflective devices, and associated equipment. The final rule reorganizing the lighting standard was published on December 4, 2007 with an effective date of September 1, 2008.[1] The effective date was extended to December 1, 2009 in a final rule published on August 28, 2008.[2] The agency received fourteen petitions for reconsideration of the 2007 final rule, including two that requested a delay in the effective date of the rule,

[1] *See* 72 FR 68234.

[2] *See* 73 FR 50730.