

deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: October 23, 2009.

**Gary Kassof,**

*Bridge Program Manager, First Coast Guard District.*

[FR Doc. E9-27132 Filed 11-10-09; 8:45 am]

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 117

[Docket Number USCG-2009-0940]

#### Drawbridge Operating Regulations; Victoria Barge Canal, Bloomington, TX

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of temporary deviation from regulations.

**SUMMARY:** The Commander, Eighth Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the Union Pacific Railroad (UPRR) Vertical Lift Span Bridge across the Victoria Barge Canal, mile 29.4 at Bloomington, Victoria County, Texas. The deviation is necessary to allow for replacement of the lift span motors. This deviation provides for the bridge to remain closed to navigation for 12 consecutive hours on November 17 and 18, 2009, from 7 a.m. to 7 p.m. each day.

**DATES:** This deviation is effective from 7 a.m. on Tuesday, November 17, 2009 until 7 p.m. on Wednesday, November 18, 2009.

**ADDRESSES:** Documents mentioned in this preamble as being available in the docket are part of docket USCG-2009-0940 and are available online by going to <http://www.regulations.gov>, inserting USCG-2009-0940 in the "Keyword" box and then clicking "Search." They are 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 Phil Johnson, Bridge Administration Branch, Eighth Coast Guard District; telephone 504-671-2128, e-mail [Philip.R.Johnson@uscg.mil](mailto:Philip.R.Johnson@uscg.mil). If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

**SUPPLEMENTARY INFORMATION:** The Victoria County Navigation District has requested a temporary deviation from the operating schedule of the UPRR Vertical Lift Span Bridge across the Victoria Barge Canal, mile 29.4 at Bloomington, Texas. 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.

Presently, the bridge opens on signal for the passage of vessels. This deviation allows the draw span of the bridge to remain closed to navigation for 12 consecutive hours between 7 a.m. and 7 p.m. each day on November 17 and 18, 2009. Navigation on the waterway consists mainly of tugs with tows. Due to prior experience and coordination with waterway users, it has been determined that this closure will not 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 to allow for replacement of the lift span motors 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 19, 2009.

**David M. Frank,**

*Bridge Administrator.*

[FR Doc. E9-27133 Filed 11-10-09; 8:45 am]

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 117

[Docket Number USCG-2009-0960]

#### Drawbridge Operating Regulations; Victoria Barge Canal, Bloomington, TX

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of temporary deviation from regulations.

**SUMMARY:** The Commander, Eighth Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the Union Pacific Railroad (UPRR) Vertical Lift Span Bridge across the Victoria Barge Canal, mile 29.4 at Bloomington, Victoria County, Texas. The deviation is necessary to allow for one phase of an on-going maintenance project to replace the lift span motors and brakes. This deviation provides for the bridge to remain closed to navigation for 12 consecutive hours on November 23 and 24, 2009, from 7 a.m. to 7 p.m. each day.

**DATES:** This deviation is effective from 7 a.m. on Monday, November 23, 2009 until 7 p.m. on Tuesday, November 24, 2009.

**ADDRESSES:** Documents mentioned in this preamble as being available in the docket are part of docket USCG-2009-0960 and are available online by going to <http://www.regulations.gov>, inserting USCG-2009-0960 in the "Keyword" box and then clicking "Search." They are 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 Phil Johnson, Bridge Administration Branch, Eighth Coast Guard District; telephone 504-671-2128, e-mail [Philip.R.Johnson@uscg.mil](mailto:Philip.R.Johnson@uscg.mil). If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

**SUPPLEMENTARY INFORMATION:** The Victoria County Navigation District has requested a temporary deviation from the operating schedule of the UPRR Vertical Lift Span Bridge across the Victoria Barge Canal, mile 29.4 at Bloomington, Texas. 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.

Presently, the bridge opens on signal for the passage of vessels. This deviation allows the draw span of the bridge to remain closed to navigation for 12 consecutive hours between 7 a.m. and 7 p.m. each day on November 23 and 24, 2009. Navigation on the waterway consists mainly of tugs with tows. Due to prior experience and coordination with waterway users, it has been determined that this closure will not

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]

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## 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](mailto: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