II. Background and Purpose

On June 23, 2023, we published a temporary deviation entitled, “Drawbridge Operation Regulation; Okeechobee Waterway, Stuart, FL” in the Federal Register (88 FR 37470). The original comment period closed on August 4, 2023. Based on the comments received and other concerns that were voiced by the public, we rescinded that test deviation, and published a new one.

On August 11, 2023, we published second a temporary deviation entitled, “Drawbridge Operation Regulation; Okeechobee Waterway, Stuart, FL” in the Federal Register (88 FR 54487). The second comment period closed on October 15, 2023. The temporary deviations are testing a more predictable operating schedule for the FEC Railroad Bridge and contains useful background and analysis related to the temporary deviation. The public is encouraged to review the temporary deviation.

We originally set a 60-day comment period for the temporary deviation and determined reopening the comment period until the end of the temporary deviation is necessary due to the delay in the start of additional railway service. Additional railway service was delayed and did not commence until late September 2023. We feel the start of additional railway service so close to the end of the comment period did not afford the public adequate opportunity to provide comments.

This notice to reopen the comment period ensures notice and opportunity to comment on the operation of the drawbridge before determining whether a permanent change to the schedule is needed.

The comment period is now open through November 30, 2023. Any comments received in the period between when the initial comment period closed on October 15, 2023 and the reopening of the comment period on November 7, 2023 will also be considered.

This notice is issued under authority of 33 U.S.C. 1223 and 5 U.S.C. 552.

III. Public Participation and Request for Comments

We view public participation as essential to determining the needs of the public and will consider all comments and material received during the comment period. Your comment can help shape the outcome of future actions. If you submit a comment, please include the docket number for this test deviation, indicate the specific
DEPARTMENT OF HOMELAND SECURITY
Coast Guard
33 CFR Part 165
[Docket Number USCG–2023–0862]
RIN 1625–AA00
Safety Zone; Atlantic Ocean, Virginia Beach, Virginia
AGENCY: Coast Guard, DHS.
ACTION: Temporary final rule.
SUMMARY: The Coast Guard is establishing a temporary safety zone for navigable waters within a 550-yard radius of the M/V HOS MYSTIQUE and accompanying machinery while the vessel is conducting a subsea survey and maneuvering the vessel in the Atlantic Ocean within three nautical miles of the shores of the State Military Reservation, Virginia Beach. The safety zone is needed to protect personnel, vessels, and the marine environment from potential hazards associated with the survey operations utilizing ROVs in shallow water to identify pUXO.
DATES: This rule is effective without actual notice from November 7, 2023 through December 31, 2023. For the purposes of enforcement, actual notice will be used from November 1, 2023, until November 7, 2023.
ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to https://www.regulations.gov, type USCG–2023–0862 in the search box and click “Search.” Next, in the Document Type column, select “Supporting & Related Material.”
FOR FURTHER INFORMATION CONTACT: If you have questions about this rule, call or email LCDR Ashley Holm, Chief Waterways Management Division U.S. Coast Guard, 757–617–7986, Ashley.E.Holm@uscg.mil.
SUPPLEMENTARY INFORMATION:
I. Table of Abbreviations
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<td>CFR</td>
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<td>pUXO</td>
<td>Potential Unexploded Ordnance</td>
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II. Background Information and Regulatory History
The Coast Guard is issuing this temporary 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) because Coast Guard Sector Virginia was notified on October 25, 2023 that the M/V HOS MYSTIQUE will conduct survey operations using an ROV to identify pUXOs beginning November 1, 2023 and a safety zone is necessary to protect the public from the safety hazards associated with any disturbances of pUXOs, as well as, the obstruction to navigation during the use of a tethered ROV. It is impracticable to publish an NPRM because we must establish this safety zone by November 1, 2023, to protect the public. 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. Delaying the effective date of this rule would be impracticable because immediate action is needed to respond to the potential safety hazards associated with the survey operations utilizing ROVs in shallow water to identify pUXO.

III. Legal Authority and Need for Rule
The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034. The Captain of the Port Sector Virginia (COTP) has determined that potential hazards associated with the survey operations starting November 1, 2023, and continuing until late December, will be a safety concern for any persons or property within a 550-yard radius of the survey vessel. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone from potential hazards that arise from disturbing pUXOs and the use of tethered ROVs to identify them.

IV. Discussion of the Rule
This rule establishes a safety zone on November 1, 2023, through December 31, 2023. The safety zone encompasses all waters inside a radius of 550 yards from the actual position of the M/V HOS MYSTIQUE. During survey operations, a