

industry under 29 CFR 1910.102. Accordingly, practices and conditions that apply to acetylene stored in cylinders and used in welding operations may differ from the practices and conditions appropriate to bulk storage of acetylene in generation and distribution facilities.

One commenter expressed concern that OSHA would apply retroactively to existing acetylene-generating facilities that were compliant with the appropriate standards when originally constructed, those sections of the NFPA 51A-2001 standard that address site location, design, and materials (Ex. OSHA-2008-0034-0019). The commenter noted that applying the updated NFPA standard in this fashion would require moving or demolishing the facilities, or discontinuing operations. In response to this commenter, OSHA notes that section 1.2.2 of NFPA 51A-2001 states, "An existing plant that is not in strict compliance with the provisions of this standard shall be permitted to continue operations where such use does not constitute a distinct hazard to life or adjoining property." This provision indicates clearly that NFPA 51A-2001 does not apply to acetylene plants in existence prior to publication of the standard when the operations in these plants do not endanger employees. Therefore, OSHA considers acetylene plants in existence prior to the effective date of NFPA 51A-2001 (i.e., February 9, 2001) to be in compliance with that standard when the acetylene operations in these plants do not "constitute a distinct hazard" to employees.

#### List of Subjects in 29 CFR Part 1910

Acetylene, General industry, Occupational safety and health, Safety.

#### Authority and Signature

Jordan Barab, Acting Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210, directed the preparation of this final rule. OSHA is issuing this final rule pursuant to Sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, and 657), 5 U.S.C. 553, Secretary of Labor's Order 5-2007 (72 FR 31160), and 29 CFR part 1911.

Signed at Washington, DC, on November 5, 2009.

#### Jordan Barab,

Acting Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. E9-27004 Filed 11-9-09; 8:45 am]

BILLING CODE 4510-26-P

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 117

[Docket Number USCG-2009-0963]

#### 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.

**DATES:** This deviation is effective from 7 a.m. on Tuesday, December 1, 2009 until 7 p.m. on Wednesday, December 2, 2009.

**ADDRESSES:** Documents mentioned in this preamble as being available in the docket are part of docket USCG-2009-0963 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 December 1 and 2, 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.

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. 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 28, 2009.

**David M. Frank,**

Bridge Administrator.

[FR Doc. E9-26984 Filed 11-9-09; 8:45 am]

BILLING CODE 4910-15-P

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 117

[Docket No. USCG-2009-0686]

#### Drawbridge Operation Regulations; Lower Grand River, Iberville Parish, LA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of temporary deviation from regulations; request for comments.

**SUMMARY:** The Commander, Eighth Coast Guard District, has issued a temporary deviation from the regulations governing the operation of the LA 75 pontoon bridge and the LA 77 swing bridge across the Lower Grand River, mile 38.4 and 47.0 respectively, in Iberville Parish, Louisiana. This deviation will test a change to both drawbridge's operating schedules to determine whether permanent changes to the schedules are needed. The deviation will allow an additional 30 minutes to the end of each scheduled closure period to provide more time for school buses to transit across the bridges.

**DATES:** This deviation is effective from November 25, 2009 through December 28, 2009.

Comments, requests for public meetings, and related material must be

received by the Coast Guard on or before January 11, 2010.

**ADDRESSES:** You may submit comments identified by docket number USCG–2009–0686 using any one of the following methods:

(1) *Federal eRulemaking Portal:*  
<http://www.regulations.gov>.

(2) *Fax:* 202–493–2251.

(3) *Mail:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001.

(4) *Hand delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

To avoid duplication, please use only one of these methods. See the “Public Participation and Request for Comments” portion of the

**SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this proposed rule, call or e-mail Lindsey Middleton, Bridge Administration Branch; telephone 504–671–2128, e-mail [Lindsey.R.Middleton@uscg.mil](mailto:Lindsey.R.Middleton@uscg.mil). If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

**SUPPLEMENTARY INFORMATION:**

**Public Participation and Request for Comments**

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted, without change, to <http://www.regulations.gov> and will include any personal information you have provided.

**Submitting Comments**

If you submit a comment, please include the docket number for this rulemaking (USCG–2009–0686), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online (<http://www.regulations.gov>), or by fax, mail or hand delivery, but please use only one of these means. If you submit a comment online via <http://www.regulations.gov>, it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand delivery, or

mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an e-mail address, or a phone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov>, click on the “submit a comment” box, which will then become highlighted in blue. In the “Keyword” box insert “USCG–2009–0686,” click “Search,” and then click on the balloon shape in the “Actions” column. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the rule based on your comments.

**Viewing Comments and Documents**

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, click on the “read comments” box, which will then become highlighted in blue. In the “Keyword” box insert “USCG–2009–0686” and click “Search.” Click the “Open Docket Folder” in the “Actions” column. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

**Privacy Act**

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

**Public Meeting**

We do not now plan to hold a public meeting. But you may submit a request for one on using one of the four methods specified under **ADDRESSES**. Please explain why one would be beneficial. If

we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

**Background and Purpose**

The Iberville Parish School Board has requested a change in the operation regulations for the LA 75 pontoon bridge and the LA 77 swing bridge across the Lower Grand River, mile 38.4 and 47.0, respectively, in Iberville Parish, Louisiana. The change would add an additional 30 minutes to the end of each scheduled closure period to provide more time for school buses to transit across the bridge. Extra time is now needed because one of Iberville Parish’s high schools has been closed. As a result, students have been redistricted creating the need for buses to have more time to transit the students over the bridges to get to and from school.

Presently, 33 CFR 117.478 (a) states: The draw of the LA 75 bridge, mile 38.4 (Alternate Route) at Bayou Sorrel, shall open on signal; except that, from about August 15 to about June 5 (the school year), the draw need not be opened from 6 a.m. to 7:30 a.m. and from 3 p.m. to 4:30 p.m., Monday through Friday except holidays. The draw shall open on signal at any time for an emergency aboard a vessel.

Presently, 33 CFR 117.478 (b) states: The draw of the LA 77 bridge, mile 47.0 (Alternate Route) at Grosse Tete, shall open on signal; except that from about August 15 to about June 5 (the school year), the draw need not be opened from 6 a.m. to 8 a.m. and from 2:30 p.m. to 4:30 p.m., Monday through Friday except Federal holidays. The draw shall open on signal at any time for an emergency aboard a vessel.

The Iberville Parish School Board has requested that the operating regulation of both the LA 75 and LA 77 bridges be changed to open on signal; except that, from about August 15 to about June 5 (the school year), the LA 75 bridge need not be opened from 6 a.m. to 8 a.m. and from 3 p.m. to 5 p.m., Monday through Friday except holidays and the LA 77 bridge need not be opened from 6 a.m. to 8:30 a.m. and from 2:30 p.m. to 5 p.m., Monday through Friday except Federal holidays. Both draws shall open on signal at any time for an emergency aboard a vessel.

We are testing these potential operating regulation adjustments to discover any outcomes in vehicular traffic and water navigation as a result of the time adjustments. During the temporary deviation period a traffic count has been requested from

Louisiana Department of Transportation and Development.

This deviation is effective from November 25, 2009 until December 28, 2009.

The LA 75 bridge is a pontoon bridge, there is no access for vessels to pass through the bridge while it is in the closed-to-navigation position. Vessels have access to two different alternate routes. One route is the Atchafalaya River and, the other accessible route is the Gulf Intracoastal Waterway.

The LA 77 bridge is a swing span bridge and has a vertical clearance of 2.5 feet above mean high water, elevation 9.0 feet mean sea level and 11.5 feet above mean low water, elevation 0.0 mean sea level in the closed-to-navigation position. Vessels have access to the Gulf Intracoastal Waterway as an alternate route.

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 14, 2009.

**David M. Frank,**

*Bridge Administrator.*

[FR Doc. E9-26988 Filed 11-9-09; 8:45 am]

**BILLING CODE 4910-15-P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket No. USCG-2008-0085]

RIN 1625-AA11

#### Regulated Navigation Area; East Rockaway Inlet to Atlantic Beach Bridge, Nassau County, Long Island, NY

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is establishing a regulated navigation area extending from the entrance of East Rockaway Inlet to the Atlantic Beach Bridge, Nassau County, New York. This regulated navigation area will affect commercial vessels carrying petroleum products in excess of 250 barrels by requiring them to plan all transits of the regulated navigation area so that they maintain a minimum of two feet under keel clearance at all times. Additionally, they may not transit the regulated navigation area if a small craft advisory, or more severe weather warning, has been issued, unless authorized by the

Captain of the Port Long Island Sound. This action is necessary because significant shoaling in this area has reduced the depths of the navigable channel and has increased the risk of vessels grounding in the channel and the potential for a significant oil spill.

**DATES:** This rule is effective December 10, 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-2008-0085 and are available online by going to <http://www.regulations.gov>, inserting USCG-2008-0085 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: Chief Petty Officer Christie Dixon, Prevention Department, USCG Sector Long Island Sound at 203-468-4459, e-mail: [christie.m.dixon@uscg.mil](mailto:christie.m.dixon@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 June 15, 2009, we published a notice of proposed rulemaking (NPRM) entitled "Regulated Navigation Area; East Rockaway Inlet to Atlantic Beach Bridge, Nassau County, Long Island, NY" in the *Federal Register* (74 FR 28199). We did not receive any comments or requests for meetings on the proposed rule.

##### Background and Purpose

East Rockaway Inlet is on the South Shore of Long Island, in Nassau County. Water depths in the federal navigation channel change constantly and have been reduced in some areas to as low as five feet at times. This channel was last dredged by the Army Corps of Engineers during the winter of 2008-2009 and is on a 2 year cycle for dredge work. The channel buoys require regular relocation to mark best water as the channel shoals in between dredge cycles. East Rockaway Inlet is frequented by small coastal tankers and tugs towing oil barges supplying two facilities: Sprague Energy Oceanside, located in Oceanside, Long Island, New York, a supplier of home heating oil for Long Island, and

Keyspan E.F. Barrett, an electrical power generation facility, located in Island Park, Long Island, New York. For vessels carrying 250 or more barrels of petroleum, approximately 60 transits occur in that area each year. The shoaling in this area has reduced depths to a point where there is an increased risk of vessels grounding and the potential for a significant oil spill. Similar shoaling led to the grounding in late 2003 of a small coastal tanker carrying home heating oil.

This rule will provide for the safety of vessel traffic and protection of the maritime environment in and around East Rockaway Inlet, Long Island, New York.

#### Discussion of Comments and Changes

There were not any comments or changes to the regulatory text.

#### 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.

#### 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 may affect the following entities, some of which may be small entities: The owners or operators of vessels carrying petroleum products intending to transit or anchor in those portions of the East Rockaway Inlet covered by the regulated navigation area; and Sprague Energy Oceanside and Keyspan E.S. Barrett which receive the vessels affected by this regulated