

Spring, MD 20993-0002, email: 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.*

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## 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]

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## 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.