

prospective payment system if the HHA is experiencing financial difficulties because there is a delay by the contractor in making payment to the HHA. The following are criteria for making accelerated payments:

(i) *Approval of payment.* An HHA's request for an accelerated payment must be approved by the contractor and TRICARE Management Activity (TMA).

(ii) *Amount of payment.* The amount of the accelerated payment is computed as a percentage of the net payment for unbilled or unpaid covered services.

(iii) *Recovery of payment.* Recovery of the accelerated payment is made by recoupment as HHA bills are processed or by direct payment by the HHA.

(8) *Assessment data.* Beneficiary assessment data, incorporating the use of the current version of the OASIS items, must be submitted to the contractor for payment under the HHA prospective payment system.

(9) *Administrative review.* An HHA is not entitled to judicial or administrative review with regard to:

(i) Establishment of the payment unit, including the national 60-day prospective episode payment rate, adjustments and outlier payment.

(ii) Establishment of transition period, definition and application of the unit of payment.

(iii) Computation of the initial standard prospective payment amounts.

(iv) Establishment of case-mix and area wage adjustment factors.

(i) *Changes in Federal Law affecting Medicare.* With regard to paragraph (b) and (h) of this section, the Department of Defense must, within the time frame specified in law and to the extent it is practicable, bring the TRICARE program into compliance with any changes in Federal Law affecting the Medicare program that occur after the effective date of the DoD rule to implement the prospective payment systems for skilled nursing facilities and home health agencies.

\* \* \* \*

Dated: June 5, 2002.

**L.M. Bynum,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

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## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 117

[CGD07-02-057]

#### **Drawbridge Operation Regulations; Atlantic Intracoastal Waterway, Mile 1069.4 at Dania Beach, Broward County, FL**

**AGENCY:** Coast Guard, DOT.

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

**SUMMARY:** The Commander, Seventh Coast Guard District, has approved a temporary deviation from the regulations governing the operation of the Dania Beach Boulevard bridge, mile 1069.4 at Dania Beach, Florida, from June 4, 2002 to July 31, 2002. This deviation allows this bridge to only open a single-leaf of the bridge every 20 minutes. Double-leaf openings will be available with a two-hour advance notice to the bridge tender. This temporary deviation is required to allow the bridge owner to safely complete repairs to the bridge.

**DATES:** This deviation is effective from 12:01 a.m. on June 4, 2002 to 8 p.m. on July 31, 2002.

**ADDRESSES:** Material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at Commander (obr), Seventh Coast Guard District, 909 S.E. 1st Avenue, Room 432, Miami, FL 33131 between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Mr. Michael Lieberum, Project Officer, Seventh Coast Guard District, Bridge Section at (305) 415-6744.

**SUPPLEMENTARY INFORMATION:** The Dania Beach Boulevard bridge, mile 1069.4 at Dania Beach, Broward County, Florida, has a vertical clearance of 22 feet at mean high water and a horizontal clearance of 45 feet between the down span and the fender system. The existing operating regulations in 33 CFR part 117 require the bridge to open on signal.

PCL Contractors notified the Coast Guard on April 16, 2002, that the work on the bascule leaves had started and due to a safety issue involving welding deck plates, they requested a 20 minute opening schedule. On April 22, 2002, the Coast Guard contacted the Florida Department of Transportation representative, URS, to discuss this

request. It was determined that the contractor did need the bridge to be put on a 20 minute temporary operating schedule. Additionally, URS requested that the bridge be allowed to only open a single-leaf, with double-leaf openings available with a two-hour advance notice to the bridge tender. This action is necessary to facilitate worker's safety during repairs to the bridge without significantly hindering navigation, as a full opening will be provided with a two-hour advance notice to the bridge tender.

The District Commander has granted a temporary deviation from the operating requirements listed in 33 CFR 117.5 to complete repairs to the drawbridge. Under this deviation, the Dania Beach Boulevard bridge, mile 1069.4 at Dania Beach, need only open a single-leaf on the hour, 20 minutes after the hour, and 40 minutes after the hour from 12:01 a.m. on June 4, 2002, to 8 p.m. on July 31, 2002. A double-leaf opening will be available if two-hour advance notice is provided to the bridge tender from 12:01 a.m. on June 4, 2002, to 8 p.m. on July 31, 2002.

Dated: June 4, 2002.

**Greg Shapley,**

*Chief, Bridge Administration Branch, Seventh Coast Guard District.*

[FR Doc. 02-14969 Filed 6-12-02; 8:45 am]

**BILLING CODE 4910-15-P**

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 117

[CGD07-01-144]

RIN 2115-AE47

#### **Drawbridge Operation Regulations; Sanibel Causeway Bridge, Okeechobee Waterway, Punta Rassa, FL**

**AGENCY:** Coast Guard, DOT.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is changing the regulations governing the operation of the Sanibel Causeway bridge, Okeechobee Waterway, mile 151, Punta Rassa, Florida. This rule requires the draw to open on signal, except that from 7 a.m. until 6 p.m., Monday through Friday, except Federal holidays, the draw need only open on the hour and half hour. On Saturday, Sunday, and Federal holidays the draw shall open on signal, except that from 7 a.m. until 6 p.m., the draw need only open on the hour, quarter hour, half hour and three quarter hour. From 10 p.m. until 6 a.m. daily, the draw will open on signal if at

least five minutes advance notice is given. This action is intended to improve movement of vehicular traffic while not unreasonably interfering with the movement of vessel traffic.

**DATES:** This rule is effective July 15, 2002.

**ADDRESSES:** Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket [CGD7-01-144] and are available for inspection or copying at Commander (obr) Seventh Coast Guard District, 909 SE 1st Ave, Miami, FL 33131 between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Mr. Barry Dragon, Project Manager, Seventh Coast Guard District, Bridge Branch, (305) 415-6743.

**SUPPLEMENTARY INFORMATION:**

**Regulatory Information**

On February 4, 2002 we published a notice of proposed rulemaking (NPRM) entitled Drawbridge Operation Regulations, Sanibel Causeway Drawbridge, Okeechobee Waterway, Florida in the **Federal Register** (67 FR 23). We received three letters commenting on the proposed rule. No public hearing was requested, and none was held.

**Background and Purpose**

The Sanibel Causeway bascule bridge is part of a two-lane narrow, undivided arterial roadway, which is the only roadway on and off Sanibel Island. This roadway is severely congested due to insufficient vehicular capacity. The existing regulation is published in 33 CFR 117.317(j) and allows the bridge to open on signal, except from 11 a.m. until 6 p.m. daily, the draw need only open on the hour, quarter hour, half hour, and three quarter hour. From 10 p.m. to 6 a.m., the draw will open on signal if at least a five minute advance notice is given. The new rule will allow the bridge to open on signal, except that from 7 a.m. until 6 p.m., Monday through Friday, except Federal holidays, the draw only need open on the hour and half hour. On Saturday, Sunday, and Federal holidays the draw shall open on signal except that from 7 a.m. until 6 p.m. the draw need only open on the hour, quarter hour, half hour and three-quarter hour. From 10 p.m. until 6 a.m. the draw will open on signal if at least five minutes advance notice is given.

**Discussion of Comments and Changes**

We received three letters of comment concerning this proposed rule. All the

letters supported the proposal. No changes were made to the proposed rule as a result of the comments.

**Regulatory Evaluation**

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. It is not "significant" under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979).

The economic impact of this rule will be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary because this rule only slightly modifies the existing bridge schedule.

**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.

This rule may affect the following entities, some of which might be small entities: the owners or operators of vessels intending to transit under the Sanibel Causeway bridge between the hours of 7 a.m. to 6 p.m., Monday through Friday, except Federal holidays. 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 not have a significant economic impact on a substantial number of small entities because this rule only slightly modifies the existing operation schedule and the maximum waiting time for vessels to pass will be about 25 minutes.

**Assistance for Small Entities**

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we offered to assist small entities in understanding the rule so that they could 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).

**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. Although 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. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

## Environment

We have considered the environmental impact of this rule and concluded that under figure 2-1, paragraph (32)(e), of Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation.

## List of Subjects in 33 CFR Part 117

Bridges.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

## PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

**Authority:** 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05-1(g); section 117.255 also issued under the authority of Pub. L. 102-587, 106 Stat. 5039.

2. Section 117.317(j) is revised to read as follows:

### § 117.317 Okeechobee Waterway

\* \* \* \* \*

(j) Sanibel Causeway bridge, mile 151 at Punta Rassa. The draw shall open on signal, except that from 7 a.m. until 6 p.m. Monday through Friday, except Federal holidays, the draw need only open on the hour and half hour. On Saturday, Sunday, and Federal holidays

the draw shall open on signal, except that from 7 a.m. until 6 p.m., the draw need only open on the hour, quarter hour, half hour and three-quarter hour. From 10 p.m. until 6 a.m. daily, the draw shall open on signal if at least five minutes advance notice is given to the bridge tender.

Dated: May 26, 2002.

**John E. Crowley, Jr.,**

*Captain, Coast Guard, Acting Commander,  
Seventh Coast Guard District.*

[FR Doc. 02-14968 Filed 6-12-02; 8:45 am]

BILLING CODE 4910-15-P

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

### 33 CFR Part 165

[CGD07-02-047]

RIN 2115-AA97

### Security Zone; San Juan, Puerto Rico

**AGENCY:** Coast Guard, DOT.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is extending the effective period for the temporary final rule creating temporary moving security zones 50 yards around all cruise ships entering or departing the Port of San Juan. Temporary fixed security zones are also established 50 yards around all cruise ships that are moored in the Port of San Juan. These security zones are needed for national security reasons to protect the public, ports, and waterways from potential subversive acts. Entry into these zones is prohibited, unless specifically authorized by the Captain of the Port, San Juan, Puerto Rico or his designated representative.

**DATES:** This rule is effective from 11:59 p.m. on June 15, 2002 until 11:59 p.m. on October 31, 2002.

**ADDRESSES:** Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of [CGD07-02-047] and are available for inspection or copying at Marine Safety Office San Juan, RODVAL Bldg, San Martin St. #90 Ste 400, Guaynabo, PR 00969 between 7 a.m. and 3:30 p.m. Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant Chip Lopez, Marine Safety Office San Juan, Puerto Rico at (787) 706-2444.

**SUPPLEMENTARY INFORMATION:**

## Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a NPRM. Publishing a NPRM, which would incorporate a comment period before a final rule could be issued, would be contrary to the public interest since the Captain of the Port of San Juan has determined that immediate action is needed to protect the public, ports and waterways of the United States near San Juan.

For the same reasons, 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**. The Coast Guard will issue a broadcast notice to mariners and written information via facsimile and electronic mail to inform mariners of this regulation.

## Background and Purpose

Based on the September 11, 2001, terrorist attacks on the World Trade Center buildings in New York and the Pentagon in Arlington, Virginia, there is an increased risk that subversive activity could be launched by vessels or persons in close proximity to the Port of San Juan, Puerto Rico, against cruise ships entering, departing and moored within this port. Following these attacks by well-trained and clandestine terrorists, national security and intelligence officials have warned that future terrorists attacks are likely. There may be Coast Guard, local police department or other patrol vessels on scene to monitor traffic and advise mariners of the restrictions in these areas. Entry into these security zones is prohibited, unless specifically authorized by the Captain of the Port, San Juan, Puerto Rico.

On January 17, 2002 the Coast Guard published a temporary final rule in the **Federal Register** that established temporary moving and fixed security zones 50 yards around all cruise ships entering, departing or moored in the Port of San Juan (67 FR 2330). That rule expired on February 28, 2002. The Captain of the Port issued another temporary final rule extending the security zones around cruise ships until June 15, 2002 (CGD07-02-015). The Captain of the Port has determined that this rule is necessary to protect the Port of San Juan from subversive activity. The Captain of the Port intends to issue a notice of proposed rulemaking in a separate document to be published in the **Federal Register** proposing to create