

(1) You and your belongings may be pat searched either randomly or upon reasonable suspicion.

(2) A pat search of your person or belongings involves a staff member pressing his/her hands on your outer clothing, or the outer surface of your belongings, to determine whether prohibited objects are present.

(3) Pat searches of your person will always be performed by staff members of the same sex.

(c) *Visual Search.* You and your belongings may be visually searched as follows:

(1) *Person.*

(A) A visual search of your person involves removing all articles of clothing, including religious headwear, to allow a visual (non-tactile) inspection of your body surfaces and cavities.

(B) Visual searches of your person must always be authorized by the Warden or his/her designee and based on reasonable suspicion; random visual searches are prohibited.

(C) When authorized, visual searches will always be performed discreetly, in a private area away from others, and by staff members of the same sex as the non-inmate being searched.

(D) Body cavity (tactile) searches of persons entering Bureau facilities, other than inmates, are prohibited.

(2) *Belongings.* A visual search of your belongings involves opening and exposing all contents for visual and manual inspection, and may be done either as part of a random search or with reasonable suspicion.

(d) *Drug Testing.*

(1) You may be tested for use of intoxicating substances by any currently reliable testing method, including, but not limited to, breathalyzers and urinalysis.

(2) Drug testing must always be authorized by the Warden or his/her designee and must be based on reasonable suspicion that you are under the influence of an intoxicating substance upon entering, or while inside, a Bureau facility. (Bureau staff are subject to drug-testing as mandated in separate Bureau policy.)

(3) Searches of this type will always be performed discreetly, in a private area away from others, and by staff members adequately trained to perform the test.

§ 511.17 When a non-inmate will be denied entry to or required to leave a Bureau facility.

At the Warden's, or his/her designee's, discretion, and based on these rules, you may be denied entry to, or required to leave, a Bureau facility if:

(a) You refuse to be searched under these rules; or

(b) There is reasonable suspicion that you may be engaged in, attempting, or about to engage in, prohibited activity which jeopardizes the Bureau's ability to ensure the safety, security, and orderly operation of its facilities, or protect the public. "Reasonable suspicion," for this purpose, may be based on the results of a search conducted under these rules, or any other reliable information.

§ 511.18 When Bureau staff can arrest and detain a non-inmate.

(a) You may be arrested and detained by Bureau staff anytime there is probable cause indicating that you have violated or attempted to violate applicable criminal laws while at a Bureau facility, as authorized by 18 U.S.C. 3050.

(b) "Probable cause" exists when specific facts and circumstances lead a reasonably cautious person (not necessarily a law enforcement officer) to believe a violation of criminal law has occurred, and warrants consideration for prosecution.

(c) Persons arrested by Bureau staff under this rule will be physically secured, using minimally necessary force and restraints, in a private area of the facility away from others. Appropriate law enforcement will be immediately summoned to investigate the incident, secure evidence, and commence criminal prosecution.

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD07-04-136]

RIN 1625-AA09

Drawbridge Operation Regulations; Atlantic Intracoastal Waterway, Broward County, FL

AGENCY: Coast Guard, DHS.

ACTION: Supplemental Notice of proposed rulemaking.

SUMMARY: On August 16, 2005, the Coast Guard proposed to change the regulations governing the operation of 10 drawbridges, and establish operating regulations for 2 drawbridges, all of which cross the Atlantic Intracoastal Waterway in Broward County, FL. The proposed rule would require all of these drawbridges to open twice an hour. The proposed schedule is based on a request

from Broward County officials, a test the Coast Guard conducted from December, 2004, until February, 2005, and comments received from the public based on the test. The proposed schedule meets the reasonable needs of navigation while accommodating increased vehicular traffic throughout the county. Due to the active hurricane season and lack of public comments to the previous Notice of Proposed Rulemaking we are reissuing the previous Notice of Proposed Rulemaking.

DATES: Comments and related material must reach the Coast Guard on or before March 15, 2006.

ADDRESSES: You may mail comments and related material to Commander (dpb), Seventh Coast Guard District, 909 SE 1st Avenue, Room 432, Miami, Florida 33131-3050. Commander (dpb) maintains the public docket for this rulemaking. Comments and 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, (CGD07-04-136) and will be available for inspection or copying at Commander (dpb), Seventh Coast Guard District, 909 SE 1st Avenue, Room 432, Miami, Florida 33131-3050 between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Gwin Tate, Seventh Coast Guard District, Bridge Branch, telephone number 305-415-6747.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (CGD07-04-136), indicate the specific section of this document to which each comment applies, and give the reason for each comment. We are maintaining the comments that were previously submitted as a result of the prior temporary deviation and it is unnecessary to resubmit the same comments. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to Bridge Branch, Seventh Coast Guard District, at the address under **ADDRESSES** explaining 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

At the request of Broward County, the Coast Guard published a temporary deviation, effective from December 1, 2004 to February 28, 2005, as a test regulation for 11 Broward County drawbridges (69 FR 67055). The following bridges were covered by the temporary deviation: NE 14th Street, mile 1055.0, Atlantic Boulevard (SR 814), mile 1056.0, Commercial Boulevard (SR 870), mile 1059.0, Oakland Park Boulevard, mile 1060.5, East Sunrise Boulevard (SR 838), mile 1062.6, East Las Olas Boulevard, mile 1064.0, SE 17th Street Causeway, mile 1065.9, Dania Beach Boulevard, mile 1069.4, Sheridan Street, mile 1070.5, Hollywood Beach Boulevard (SR 820), mile 1072.2, and Hallandale Beach Boulevard (SR 824), mile 1074.0. The Dania Beach Boulevard and Sheridan Street bridges currently do not have codified operating regulations. The Hillsboro Boulevard Bridge was not covered by the temporary deviation.

The test was conducted for approximately 90 days to collect data to determine the feasibility of changing the regulations on all drawbridges in Broward County crossing the Atlantic Intracoastal Waterway, to meet the increased demands of vehicular traffic and still provide for the reasonable needs of navigation. The test results indicated that the proposed schedule allowed both vehicular and vessel traffic the opportunity to predict, on a scheduled basis, when the bridges might be in the open position. We received 205 comments, 182 were in favor of the test schedules, 13 were in favor of keeping the existing schedules, 8 comments provided other recommended opening schedules, and 2 were general in nature. Those comments are being maintained in the docket and will be incorporated in the final rulemaking.

Public officials in Broward County requested the change in operating regulations to reduce burdens on county roadways and to standardize drawbridge openings throughout the county. The proposed rule would allow all drawbridges crossing the Atlantic Intracoastal Waterway in Broward

County to operate on a standardized schedule that would meet the reasonable needs of navigation and address vehicular traffic congestion.

Discussion of Proposed Rule

The Coast Guard proposes to change the operating regulations of 10 drawbridges, and establish operating regulations for the Dania Beach Boulevard and Sheridan Street drawbridges, all of which cross the Atlantic Intracoastal Waterway in Broward County. The existing regulations that govern the operation of the Broward County drawbridges are published in 33 CFR § 117.5 and 33 CFR § 117.261.

The proposed rule would stagger the bridge openings from north to south and allow a vessel traveling south at five knots to significantly reduce wait times to pass through open drawbridges. Drawbridges will either open on the hour and half hour or on the quarter and three-quarter hour. The results are that the following bridges will operate on the schedules below:

- Open on the hour and half hour—
- Hillsboro Boulevard (SR 810), mile 1050.0
 - Atlantic Boulevard (SR 814), mile 1056.0
 - Commercial Boulevard (SR 870), mile 1059.0
 - East Sunrise Boulevard (SR 838), mile 1062.6
 - SE 17th Street Causeway, mile 1065.9
 - Dania Beach Boulevard, mile 1069.4
 - Hollywood Beach Boulevard (SR 820), mile 1072.2
- Open on the quarter hour and three-quarter hour—
- NE 14th Street, mile 1055.0
 - Oakland Park Boulevard, mile 1060.5
 - East Las Olas Boulevard, mile 1064.0
 - Sheridan Street, mile 1070.5
 - Hallandale Beach Boulevard (SR 824), mile 1074.0

Regulatory Evaluation

This proposed 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 Homeland Security.

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary. The proposed rule would provide timed openings for

vehicular traffic and sequenced openings for vessel traffic and should have little economic impact.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this proposed 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 proposed rule would not have a significant economic impact on a substantial number of small entities. This proposed rule would affect the following entities, some of which may be small entities: the owners or operators of vessels needing to transit the Intracoastal Waterway in the vicinity of the Broward County bridges.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**. The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Collection of Information

This proposed rule would call 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 proposed 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. Though this proposed 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 proposed rule would not affect 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 proposed 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 proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would 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 proposed 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. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this proposed rule under Commandant Instruction M16475.ID, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this proposed rule is categorically excluded, under figure 2–1, paragraph (32)(e) of the Instruction, from further environmental documentation.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

For the reasons discussed in the preamble, the Coast Guard proposes to amend 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; Department of Homeland Security Delegation No. 0170.1; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. In § 117.261, remove and reserve paragraphs (cc), (dd), (ee), (ff), (gg), (hh), (jj), and (kk) and revise paragraph (bb) to read as follows:

§ 117.261 Atlantic Intracoastal Waterway from St. Marys River to Key Largo.

(bb) Broward County (1) Hillsboro Boulevard bridge (SR 810), mile 1050.0 at Deerfield Beach. The draw shall open on the hour and half-hour.

(2) NE 14th Street bridge, mile 1055.0 at Pompano. The draw shall open on the quarter-hour and three-quarter hour.

(3) Atlantic Boulevard (SR 814) bridge, mile 1056.0 at Pompano. The draw shall open on the hour and half-hour.

(4) Commercial Boulevard (SR 870) bridge, mile 1059.0, at Lauderdale-by-the-Sea. The draw shall open on the hour and half-hour.

(5) Oakland Park Boulevard bridge, mile 1060.5 at Fort Lauderdale. The draw shall open on the quarter-hour and three-quarter hour.

(6) East Sunrise Boulevard (SR 838) bridge, mile 1062.6, at Fort Lauderdale. The draw shall open on the hour and half-hour.

(7) East Las Olas bridge, mile 1064 at Fort Lauderdale. The draw shall open on the quarter-hour and three-quarter hour.

(8) SE 17th Street (Brooks Memorial) bridge, mile 1065.9 at Fort Lauderdale. The draw shall open on the hour and half-hour.

(9) Dania Beach Boulevard bridge, mile 1069.4 at Dania Beach. The draw shall open on the hour and half-hour.

(10) Sheridan Street bridge, mile 1070.5, at Fort Lauderdale. The draw shall open on the quarter-hour and three-quarter hour.

(11) Hollywood Beach Boulevard (SR 820) bridge, mile 1072.2 at Hollywood. The draw shall open on the hour and half-hour.

(12) Hallandale Beach Boulevard (SR 824) bridge, mile 1074.0 at Hallandale. The draw shall open on the quarter-hour and three-quarter hour.

Dated: January 20, 2006.

D.B. Peterman,

Rear Admiral, U.S. Coast Guard, Commander, Seventh Coast Guard District.

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