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**Joseph H. Grant,**

*Deputy Executive Director and Chief Operating Officer, Pension Benefit Guaranty Corporation.*

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

### 33 CFR Part 117

[CGD07-03-051]

RIN 1625-AA09

### Drawbridge Operation Regulations; Atlantic Intracoastal Waterway, Mile 1070.5 at Hollywood, Broward County, FL

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is temporarily changing the regulations governing the operation of the Sheridan Street Bridge, mile 1070.5, Hollywood, Broward County, Florida. This temporary rule allows this bridge to limit openings to a single leaf not more than once every 20 minutes. Double-leaf openings will be available during certain times with a two-hour advance notice to the bridge tender. This temporary rule is necessary to allow the bridge owner to safely complete repairs to the bridge.

**DATES:** This rule is effective from 7 a.m. on June 5, 2003 to 6 p.m. on September 26, 2003.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket [CGD07-03-051] and are available for inspection or copying at Commander (obr), Seventh Coast Guard District, 909 S.E. 1st Avenue, Room 432, Miami, Florida 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 Branch at (305) 415-6744.

#### 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 an NPRM. Publishing an NPRM would be impracticable and

contrary to the public interest. Publishing an NPRM and delaying the effective date of the rule would adversely affect public safety by delaying the contractor's ability to safely repair the bridge.

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**.

#### Background and Purpose

The Sheridan Street Bridge, mile 1070.5 at Hollywood, 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 117.5 require the bridge to open on signal.

On February 28, 2003, PCL Contractors requested that the Coast Guard modify the bridge opening schedule because of safety issues including, but not limited to, welding deck plates and modifying counterweight girders. Specifically, they requested that the bridge open only a single leaf no more than every 20 minutes with double-leaf openings available, during certain periods, with two hours advance notice given to the bridge tender. Double-leaf openings, however, will not be available from June 5 until July 3, 2003, because painting tarps will be in position to catch lead paint. Also, workers will be modifying the bridge's counterweights at that time. The contractor will be working 24 hours a day, seven days a week to complete bridge repairs as quickly as possible. This rule is necessary to ensure worker safety during repairs to the bridge and does not significantly hinder navigation. During this time of year, the majority of vessels that would normally require a double-leaf opening will be traversing the open ocean and not using the Intracoastal Waterway.

#### 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 Homeland Security (DHS). The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation is unnecessary, because the regulations affect a limited amount of

marine traffic and only for certain periods. Most vessels will be able to safely transit through a single span of the bridge, and both spans of the bridge will open with two hours advance notice to the bridge tender, except from June 5 until July 3, 2003.

#### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we considered whether this temporary 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 temporary rule will not have a significant economic impact on a substantial number of small entities. Most vessels will be able to safely transit through a single span of the bridge, and both spans of the bridge can be opened with two hours advanced notice to the bridge tender, except from June 5 to July 3, 2003.

#### Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), we want to assist small entities in understanding this temporary rule so that they can better evaluate its effects on them and participate in the rulemaking. If this temporary rule will affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in **FOR FURTHER INFORMATION CONTACT**.

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 temporary 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 Executive Order 13132 and have determined that this rule 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 regulatory actions not specifically required by law. 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 temporary rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in the 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 might 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. 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.

## Environment

We have analyzed this rule under Commandant Instruction M16475.1D, 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 rule is categorically excluded, under figure 2–1, paragraph (32)(e), of the Instruction, from further environmental documentation. Under figure 2–1, paragraph (32)(e), of the Instruction, an “Environmental Analysis Check List” and a “Categorical Exclusion Determination” are not required for this rule.

## 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; Department of Homeland Security Delegation No. 0170; 33 CFR 1.05–1(g); Section 117.255 also issued under authority of Pub. L. 102–587, 106 Stat. 5039.

■ 2. From 12:01 a.m. on June 5, 2003, until 6 p.m. on September 26, 2003, in § 117.261, add a new paragraph (tt) to read as follows:

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

\* \* \* \* \*

(tt) The Sheridan Street Bridge, mile 1070.5 at Hollywood, need only open a single leaf of the bridge on the hour, 20 minutes after the hour, and 40 minutes after the hour, except that from 6:01 p.m. July 3, 2003, until 6 p.m. on September 26, 2003, both leaves of the bridge will open at these times if the

drawtender receives two hours advance notice requesting a double-leaf opening.

Dated: May 30, 2003.

**James S. Carmichael,**

*Rear Admiral, Coast Guard, Commander, Seventh Coast Guard District.*

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## DEPARTMENT OF VETERANS AFFAIRS

### 38 CFR Part 1

RIN 2900–AL33

### Privacy Act of 1974; Implementation

**AGENCY:** Department of Veterans Affairs.  
**ACTION:** Final rule.

**SUMMARY:** This document amends Department of Veterans Affairs (VA) regulations governing the confidentiality and release of VA records subject to the Privacy Act, 5 U.S.C. 552a. It revises the regulation which exempts certain records from the provisions of the Privacy Act authorized under 5 U.S.C. 552a(j)(2) and (k)(2). This revision permits VA to exempt a new Privacy Act system of records, Police and Security Records—VA (103VA07B).  
**DATES:** This final rule is effective August 12, 2003.

**FOR FURTHER INFORMATION CONTACT:** Director Police and Security Service (07B), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, telephone (202) 273–5544.

**SUPPLEMENTARY INFORMATION:** This document sets forth the VA regulation to exempt from certain provisions of the Privacy Act an additional VA Privacy Act system of records (see, 38 CFR 1.582) by adding a new system of records, “Police and Security Records—VA (103VA07B),” to that VA system of records already exempt under § 1.582.

In a document published in the **Federal Register** on December 19, 2002 (67 FR 77737), VA proposed to amend VA regulations governing the confidentiality and release of VA records subject to the Privacy Act to exempt certain records from the provisions of the Privacy Act authorized under 5 U.S.C. 552a(j)(2) and (k)(2). This proposal would have allowed VA to exempt a new Privacy Act system of records relating to police and security records. The public comment period ended on February 18, 2003. Since VA did not receive any comments or response on the proposed rule for RIN 2900–AL33, we are now adopting this proposal as a final rule without change.