

Signed at Washington, DC on November 25, 2002.

Emily Stover DeRocco,
Assistant Secretary of Labor.

Words of Issuance

For the reasons set forth in this preamble, Chapter V of Title 20, Code of Federal Regulations, is proposed to be amended by removing part 604.

[FR Doc. 02-30316 Filed 12-3-02; 8:45 am]

BILLING CODE 4510-30-P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD07-02-099]

RIN 2115-AE47

Drawbridge Operation Regulations; Miami Beach Channel and Indian Creek, Miami-Dade County, FL

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to change the regulations governing the operation of the East 79th Street and the East Venetian Causeway bridges across Miami Beach Channel, and the 63rd Street bridge across Indian Creek, Miami-Dade County, Florida by allowing these bridges to remain closed during peak vehicular rush hour traffic. We anticipate that this proposed rule would reduce vehicle traffic congestion on Miami Beach during the rush hours while providing for the reasonable needs of navigation.

DATES: Comments and related material must reach the Coast Guard on or before February 3, 2003.

ADDRESSES: You may mail comments and related material to Commander (obr), Seventh Coast Guard District, 909 SE. 1st Ave, Room 406, Miami, FL 33131. Comments and material received from the public, as well as documents indicated in the preamble as being available in the docket, are part of (CGD07-02-099) and are available for inspection or copying at Commander (obr), Seventh Coast Guard District, 909 SE. 1st Avenue, Room 432, Miami, FL 33131 between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Lieberum, Seventh Coast Guard District, Bridge Branch, 909 SE. 1st Ave Miami, FL 33131, telephone number 305-415-6744.

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 (CGD07-02-099), indicate the specific section of this document to which each comment applies, and give the reason for each comment. 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

A public meeting has not been scheduled. However, you may submit a request for a meeting by writing to Bridge Branch, Seventh Coast Guard District, 909 SE. 1st Ave, Room 432, Miami, FL 33131, 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

The City of Miami Beach has requested that the Coast Guard consider changing the existing regulations for the East 79th Street, East Venetian Causeway, and the 63rd Street bridges that lead into the City of Miami Beach because of the vehicle gridlock within the city each time the bridges are opened during rush hours. Based on the limited number of requested bridge openings during the proposed time window, the Coast Guard believes it can accommodate the request while still providing for the reasonable needs of navigation.

The East 79th Street, the East Venetian Causeway, and the 63rd Street bridges are located between Miami and Miami Beach. The current regulations in 33 CFR 117.5 require the East 79th Street and the 63rd Street bridges to open on signal. The current East Venetian Causeway bridge regulation in 33 CFR 117.269 requires this bridge to open on signal; except that, from November 1 through April 30 from 7:15 a.m. to 8:45 a.m. and from 4:45 p.m. to 6:15 p.m. Monday through Friday, the draw need not be opened. However, the draw must open at 7:45 a.m., 8:15 a.m., 5:15 p.m., and 5:45 p.m., if any vessels are waiting to pass. The draw must open on signal on Thanksgiving Day,

Christmas Day, New Year's Day, and Washington's Birthday. The draw must open at any time for public vessels of the United States, tugs with tows, regularly scheduled cruise vessels, and vessels in distress.

We believe that this proposed rule would lessen vehicular traffic congestion during the workday rush hours. This proposed rule would modify the current regulation for the East Venetian Causeway bridge by requiring "regularly scheduled cruise vessels" to comply with the regulation's opening schedule by eliminating the language that currently excepts them from the existing rule. This proposed rule would modify the existing regulation of the East Venetian Causeway bridge by requiring the bridge to open on signal during all Federal holidays, not just the holidays enumerated in the rule. This proposed rule would also slightly modify the existing times when the East Venetian Causeway bridge need not open during the morning and evening rush hours, and would allow the East 79th Street and the 63rd Street bridges to remain closed from 7 a.m. to 8:59 a.m.; and from 4:10 p.m. to 6 p.m., Monday through Friday, except Federal holidays.

Discussion of Proposed Rule

The Coast Guard proposes to modify the existing bridge operating regulations and create a permanent rule that would allow the East 79th Street and the East Venetian Causeway bridges across Miami Beach Channel, and the 63rd Street bridge across Indian Creek, to remain closed from 7 a.m. to 8:59 a.m.; and from 4:10 p.m. to 6 p.m., Monday through Friday, except Federal holidays. Public vessels of the United States, tugs with tows, and vessels in distress would be passed at anytime.

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 Transportation (DOT)(44 FR 11040, February 26, 1979). We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary because there have been limited numbers of requests for openings during

these time periods and this proposed rule still provides for regular openings throughout the day.

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 because there have been limited openings during these time periods and this proposed rule still provides for regular openings throughout the day.

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 to the address under **ADDRESSES**. In your comment, explain 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 (Pub. L. 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 this proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please consult the person listed under **FOR FURTHER INFORMATION CONTACT**. We also have a point of contact for commenting on actions by employees of the Coast Guard. 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 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 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 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 proposed rule would 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 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 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.

Environment

We have considered the environmental impact of this proposed 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. A

“Categorical Exclusion Determination” is available in the docket where indicated under **ADDRESSES**.

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 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.

List of Subjects in 33 CFR Part 117

Bridges.

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; 49 CFR 1.46; 33 CFR 1.05–1(g); section 117.255 also issued under authority of Pub. L. 102–587, 106 Stat. 5039.

2. Revise § 117.269 to read as follows:

§ 117.269 Biscayne Bay.

The East 79th Street and the East Venetian Causeway bridges across Miami Beach Channel, and the 63rd Street bridge across Indian Creek, need not open from 7 a.m. to 8:59 a.m.; and from 4:10 p.m. to 6 p.m., Monday through Friday, except Federal Holidays. Public vessels of the United States, tugs with tows, and vessels in distress shall be passed at anytime.

Dated: November 12, 2002.

James S. Carmichael,

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

[FR Doc. 02-30739 Filed 12-3-02; 8:45 am]

BILLING CODE 4910-15-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

45 CFR Part 31

RIN 0991-AB17

Tax Refund Offset

AGENCY: Department of Health and Human Services.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Department of Health and Human Services (HHS) proposes to amend its tax refund offset regulations to reflect (1) the tax refund offset provisions of the Deficit Reduction Act of 1984 as amended by the Debt Collection Improvement Act of 1996, codified at 31 U.S.C. 3720A, and (2) implementing regulations issued by the Department of the Treasury at 31 CFR 285.2. The proposed rule will amend the process by which HHS certifies and refers past-due debt to the Department of Treasury for tax refund offset to satisfy debt owed to the HHS.

DATES: Submit comments on or before February 3, 2003.

ADDRESSES: Send all comments concerning this proposed rule to: Katherine M. Drews, Deputy Associate General Counsel, Office of the General Counsel, General Law Division, Room 5362, 330 Independence Avenue, SW., Washington, DC 20201.

FOR FURTHER INFORMATION CONTACT: Katherine M. Drews, 202-619-0150.

SUPPLEMENTARY INFORMATION:

Background

This proposed regulation implements the tax refund offset provisions of the Deficit Reduction Act of 1984 as amended by the Debt Collection Act of 1996 (DCIA), codified at 31 U.S.C. 3720A, and the implementing regulations issued by the Department of the Treasury at 31 CFR 285.2. Within this framework, a Federal agency owed a past-due debt must notify the Secretary of the Treasury of such debt for collection by tax refund offset in accordance with regulations promulgated by the Secretary of the Treasury. The Financial Management Service (FMS), a bureau of the Department of the Treasury (Treasury), is responsible for promulgating the regulations implementing this and other

debt collection tools established by the DCIA. The Treasury Final Rule, as amended, is published at 31 CFR 285.2.

Basic Provisions

In accordance with the requirements of the DCIA and the implementing regulations issued by the Department of Treasury at 31 CFR 285.2, the proposed regulation establishes the rules and procedures for certifying and referring a past-due debt to FMS for tax refund offset, correcting and updating referral information transmitted to FMS, and providing the debtor with written notice at least 60 days before the Department refers a debt to FMS. This written notice informs the debtor of the nature and amount of the debt, that the debt is past-due and legally enforceable, that the Department intends to enforce collection by referring the debt to the Department of Treasury for tax refund offset, and that the debtor has a right to inspect and copy Department records relating to the debt, enter into a repayment agreement, and request review and present evidence that all or part of the debt is not past-due or legally enforceable.

Rules and Procedures

Except for minor changes to make the provisions agency-specific, the proposed rule is substantially identical to the Treasury Final Rule. In accordance with the substantive and procedural requirements of the DCIA and the Treasury Final Rule, this proposed rule would establish HHS rules and procedures for:

1. Certifying and referring a past-due debt to FMS for tax refund offset.
2. Correcting and updating referral information transmitted to FMS.
3. Providing the debtor with written notice at least 60 days before referring a debt to FMS. This written notice must inform the debtor of the nature and amount of the debt, that the debt is past-due and legally enforceable, that the Department intends to enforce collection by referring the debt to the Department of Treasury for tax refund offset, and that the debtor has a right to inspect and copy Department records relating to the debt, enter into a repayment agreement, and request review and present evidence that all or part of the debt is not past-due or legally enforceable.

Economic Impact

We have examined the impact of this rule as required by Executive Order 12866 (September 1993, *Regulatory Planning and Review*), as amended by Executive Order 13258 (February 2002, *Amending Executive Order 12866 on*

Regulatory Planning and Review) and the Regulatory Flexibility Act (RFA) (September 19, 1980; Pub. L. 96-354), the Unfunded Mandated Reform Act of 1995 (Pub. L. 104-4), and Executive Order 13132 (August 1999, *Federalism*).

Executive Order 12866 (the Order), as amended by Executive Order 13258, directs agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize the benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). A regulatory impact analysis (RIA) must be prepared for major rules with economically significant effects (\$100 million or more in 1 year). We have determined that the proposed rule is consistent with the principles set forth in the Order, and we find that the proposed rule would not have an effect on the economy that exceeds \$100 million in any one year. In addition, this rule is not a major rule as defined at U.S.C. 804(2). In accordance with the provisions of the Order, the rule was reviewed by the Office of Management and Budget.

It is hereby certified under the RFA that this proposed regulation, will not have a significant economic impact on a substantial number of small entities. This proposed rule applies only to individuals with past-due debts owed to the United States.

Section 202 of the Unfunded Mandates Reform Act of 1995 also requires that agencies assess anticipated costs and benefits before issuing any rule that may result in expenditure of in any 1 year by State, local, or tribal governments, in the aggregate, or by the private sector, of \$100 million. As noted above, we find that the proposed rule would not have an effect of this magnitude on the economy.

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a proposed rule (and subsequent final rule) that imposes substantial direct requirement costs on State and local governments, preempts State law, or otherwise has Federalism implications. We have reviewed the proposed rule under the threshold criterion of Executive Order 13132, *Federalism*, and have determined that this proposed rule would not have substantial direct impact on States, or on the distribution of power and responsibilities among the various levels of government. As there are no Federalism implications, a Federalism impact statement is not required.