

placed on a mailing list for future NPRM's should contact the FAA's Office of Rulemaking, (202) 267-9677, to request a copy of Advisory Circular No. 11-2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

### The Proposal

The FAA is considering an amendment to the Code of Federal Regulations (14 CFR part 71), which would modify existing Class E airspace at St. Paul Island, AK. The intended effect of this proposal is to create Class E airspace upward from 700 ft. and 1,200 ft. above the surface to contain Instrument Flight Rules (IFR) operations at St. Paul Island, AK.

The FAA Instrument Flight Procedures Production and Maintenance Branch has developed one new SIAP and revised five SIAPs for the St. Paul Island Airport. The new approach is the Area Navigation (Global Positioning System (RNAV (GPS)) Runway (RWY) 36, original. The five revised SIAPs are; (1) RNAV (GPS) RWY 18, Amendment (Amdt) 1, (2) Non-directional Beacon (NDB)-A, Amdt 1, (3) NDB/Distance Measuring Equipment (DME) RWY 18, Amdt 3, (4) Localizer (LOC)/DME Back Course RWY 18, Amdt 3, (5) Instrument Landing System (ILS) or LOC/DME RWY 36, Amdt 2. Class E controlled airspace extending upward from 700 ft. and 1,200 ft. above the surface within the St. Paul Island Airport area would be revised by this action. The proposed airspace is sufficient in size to contain aircraft executing these instrument procedures at the St. Paul Island Airport. A corresponding airspace change to Offshore Airspace Area 1234L will be coordinated with the FAA's Airspace and Rules, Office of System Operations Airspace, in accordance with FAA Order 7400.2.

The area would be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. The Class E airspace areas designated as 700/1200 foot transition areas are published in paragraph 6005 in FAA Order 7400.9N, *Airspace Designations and Reporting Points*, dated September 1, 2005, and effective September 15, 2005, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to

keep them operationally current. It, therefore—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle 1, section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in subtitle VII, part A, subpart 1, section 40103, Sovereignty and use of airspace. Under that section, the FAA is charged with prescribing regulations to ensure the safe and efficient use of the navigable airspace. This regulation is within the scope of that authority because it proposes to create Class E airspace sufficient in size to contain aircraft executing new and revised instrument procedures at the St. Paul Island Airport and represents the FAA's continuing effort to safely and efficiently use the navigable airspace.

### List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

### The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

### PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for 14 CFR part 71 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959-1963 Comp., p. 389.

#### § 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9N, *Airspace Designations and Reporting Points*, dated September 1, 2005, and

effective September 15, 2005, is to be amended as follows:

\* \* \* \* \*

*Paragraph 6005 Class E airspace extending upward from 700 feet or more above the surface of the earth.*

\* \* \* \* \*

### AAL AK E5 St. Paul Island, AK [Revised]

St. Paul Island, AK  
(Lat. 57°10'02"N., long. 170°13'14"W.)

That airspace extending upward from 700 feet above the surface within a 8-mile radius of the St. Paul Island Airport, and within 8 miles west and 6 miles east of the 360° bearing from the St. Paul Airport from the 8-mile radius to 14 miles north of the St. Paul Airport, and within 6 miles west and 8 miles east of the 172° bearing from the St. Paul Airport from the 8-mile radius to 15 miles south of the St. Paul Airport, and that airspace extending upward from 1,200 feet above the surface within a 73-mile radius of the St. Paul Island Airport.

\* \* \* \* \*

Issued in Anchorage, AK, on January 24, 2006.

**Michael A. Tarr,**

*Manager, Operations Support.*

[FR Doc. E6-1158 Filed 1-30-06; 8:45 am]

**BILLING CODE 4910-13-P**

## DEPARTMENT OF JUSTICE

### Bureau of Prisons

### 28 CFR Part 511

[BOP-1128]

RIN 1120-AB26

### Searching and Detaining or Arresting Non-Inmates

**AGENCY:** Bureau of Prisons, Justice.

**ACTION:** Proposed rule.

**SUMMARY:** In this document, the Bureau of Prisons (Bureau) proposes to amend its regulations on searching and detaining or arresting non-inmates. This revision reorganizes current rules and makes changes that would subject non-inmates to pat searches, either as random searches or based upon reasonable suspicion, as a condition of entry to a Bureau facility.

**DATES:** Comments due by April 3, 2006.

**ADDRESSES:** Our e-mail address is [boprules@bop.gov](mailto:boprules@bop.gov). Submit comments to the Rules Unit, Office of General Counsel, Bureau of Prisons, 320 First Street, NW., Washington, DC 20534. You may view this rule at <http://www.regulations.gov>. You may also comment via the Internet to BOP at [boprules@bop.gov](mailto:boprules@bop.gov) or via the comment form at <http://www.regulations.gov>.

When submitting comments electronically you must include the BOP Docket No. in the subject box.

**FOR FURTHER INFORMATION CONTACT:** Sarah Qureshi, Office of General Counsel, Bureau of Prisons, phone (202) 307-2105.

**SUPPLEMENTARY INFORMATION:** In this document, the Bureau proposes to amend its regulations on searching and detaining or arresting non-inmates. Current regulations on this subject in 28 CFR part 511 were published on November 1, 1984 (49 FR 44057), February 8, 1994 (59 FR 5924), and March 10, 1998 (63 FR 11818). A further proposed rule relating to both searches of inmates and non-inmates was published on February 25, 1999, (64 FR 9431). The Bureau is working to finalize the portion of that rule relating to inmates, but the portion relating to non-inmates was withdrawn and is encompassed in this proposed rulemaking.

This revision reorganizes current rules and makes other changes for clarity, including excising guidance to staff. Such guidance to staff will remain part of the relevant Bureau policy, enabling the Bureau to more quickly respond to staff correctional needs without altering Federal regulations that pertain to inmates or the public. We also make changes that would subject non-inmates to pat searches, either as random searches or based upon reasonable suspicion, as a condition of entry to a Bureau facility.

*Section-by-Section Analysis.* Below is an analysis of each new rule. We refer to each proposed rule by its new (proposed) designation.

#### *Section 511.10 Purpose & Scope*

This subpart will cover searching persons and their belongings to prevent prohibited objects from entering Bureau facilities; authorizing, denying, and/or terminating a person's presence inside a Bureau facility; and authorizing Bureau staff to remove, and possibly arrest and detain, persons suspected of engaging in prohibited activity. These rules will apply to all persons who wish to enter, or are present in, Bureau facilities, other than inmates in Bureau custody, at all Bureau facilities, including administrative offices.

Additionally, the purpose of these rules is to help us ensure the safety, security, and orderly operation of Bureau facilities, and protect the public. These goals are furthered by carefully managing persons, the objects they bring, and their activities, inside Bureau facilities.

#### *Section 511.11 Prohibited Activities*

In this rule, we define "prohibited activities" as those which could jeopardize the Bureau's ability to ensure the safety, security, and orderly operation of Bureau facilities, and protect the public, whether or not such activities are criminal in nature; and we give examples of such activities.

The current rule, § 511.10, contains detailed lists of offenses, including any "described in title 18 or 21 of the United States Code," that are prohibited, but does not characterize them as "prohibited activities." In this revised rule, we characterize such offenses as "prohibited activities," and expand this definition to include non-criminal activities which threaten the safety, security, and orderly operation of Bureau facilities. We use the term "prohibited activities" to encompass both criminal and non-criminal violations which nonetheless compromise the Bureau's ability to fulfill its mission.

#### *Section 511.12 Prohibited Objects*

In this rule, we define "prohibited objects" as those which could jeopardize the Bureau's ability to ensure the safety, security, and orderly operation of Bureau facilities, and protect the public, whether or not such objects are criminal in nature; and we give examples of such objects.

The current rule, § 511.11(c), defines "prohibited objects." In our revision, we clarify that the term is defined as in 18 U.S.C. 1791(d)(1) and conform it with our mission to ensure the safety, security, and orderly operation of Bureau facilities, and protect the public.

As in the current rule, we give examples of "prohibited objects," including, but not limited to, the following items and their related paraphernalia: Weapons, explosives, drugs, intoxicants, currency, cameras of any type, recording equipment, telephones, radios, pagers, and any other objects which violate criminal laws or are prohibited by Federal regulations or Bureau policies.

#### *Section 511.13 Searches Before Entering, or While Inside, a Bureau Facility*

In this rule, we indicate that Bureau staff may search non-inmates and their belongings before entering, or while inside, any of our facilities, to keep out prohibited objects. This rule simply restates our initial statement in the current rule § 511.10(a).

#### *Section 511.14 Notification of Possible Searches*

In this rule, we indicate that we display conspicuous notices at the entrance to our facilities, informing all persons that they, and their belongings, are subject to search before entering, or while inside, Bureau facilities. Furthermore, we intend these rules and Bureau national and local policies to provide additional notice that non-inmates and their belongings may be searched before entering our facilities. We also indicate that by entering a Bureau facility, non-inmates consent to being searched in accordance with these rules and Bureau policy.

This rule clarifies language in current § 511.12(a) regarding notices posted outside a facility advising non-inmates that they and their belongings may be subject to search.

#### *Section 511.15 When Searches Will Be Conducted*

In this rule, we state that non-inmates and their belongings may be searched either randomly or based on reasonable suspicion before entering, or while inside, a Bureau facility, as follows:

*Random Searches.* The proposed rule indicates that non-inmates wishing to enter Bureau facilities will be subject to searches occurring randomly, and not based on any particular suspicion that a person is attempting to bring a prohibited object into a Bureau facility. Random searches must always be done impartially, and in a nondiscriminatory fashion.

The possibility of being pat-searched (and the obvious notices so stating) acts as a deterrent to non-inmates seeking to introduce contraband without unnecessarily or extremely burdening staff resources. Random searches would allow for local staff and institutions to maintain their flexibility, particularly with regard to institution resources, staffing changes, numbers of visitors, and time management.

Non-inmate visitors are a significant source of contraband introduction into Bureau facilities. 18 U.S.C. 1791 prohibits providing an inmate a prohibited object in violation of a statute or rule issued under statute. Although other search methods, such as visual searches of the person and electronic detection devices, enable us to search non-inmates before they enter Bureau facilities, a 2003 report by the Office of Inspector General found that non-inmates often found unique ways of introducing contraband that may have easily been detected or prevented by random pat searches of non-inmates entering Bureau facilities.

We therefore must tighten security measures by instituting a system of random pat searching of non-inmates entering Bureau facilities. This will serve the dual purpose of preventing the introduction of contraband by its detection, and deterring visitors who may attempt to introduce contraband. The Bureau's overriding need to prevent introduction of contraband and/or confiscate contraband necessitates random pat searches.

Random searches, (without reasonable suspicion) are permissible, especially if the non-inmate is given prior notice of the search, which therefore lowers the non-inmate's reasonable expectation of privacy when seeking entry to the prison facility, and consents to the search. *See Spear v. Sowders*, 71 F.3d 626 (6th Cir. 1995); *U.S. v. Johnson*, 27 F.3d 564 (unpublished) (4th Cir. 1994); *El v. Williams*, 1990 WL 65717 (unpublished) (E.D.Pa. 1990).

As previously discussed, non-inmates will be aware that they may be subject to such searches both through notices displayed prominently at entry points to Bureau facilities and through these rules. Furthermore, non-inmates will be given the option of either consenting to such searches as a condition of entry or refusing such searches and leaving Bureau property.

However, if a non-inmate refuses to submit to a random search and expresses an intent to leave Bureau property, he or she may still be required to be searched if "reasonable suspicion" exists as described in the following paragraph. It is necessary to provide the possibility of a "reasonable suspicion" search of non-inmates who decline a random search to discover and prevent the attempt to commit the crime of smuggling contraband or prohibited items into a Bureau facility. The mere fact that a non-inmate refuses to be searched does not give rise to reasonable suspicion, absent some other ground.

*Reasonable Suspicion Searches.* Notwithstanding random searches, staff may conduct pat searches of a non-inmate based on reasonable suspicion to ensure the safety, security, and orderly operation of Bureau facilities, and protect the public. "Reasonable suspicion" exists if a staff member knows of facts and circumstances which warrant rational inferences by a person with correctional experience that a person may be engaged in, attempting, or about to engage in, criminal or other prohibited activity.

This rule merely restates the definition of "reasonable suspicion" currently found in § 511.11(a).

#### *Section 511.16 How Searches Will Be Conducted*

This proposed rule restates and further details the types of searches listed in current § 511.12. In the current rule, we state that electronic searches, pat searches, visual searches of the person, and drug testing are done with reasonable suspicion. The only substantive change we now propose is to allow electronic searches and pat searches of all non-inmates entering Bureau facilities.

Non-inmate visitors are the primary source of contraband introduction into Bureau facilities. Although we have other search methods, such as visual searches, which enable us to search non-inmates before they enter Bureau facilities, contraband is still introduced. We therefore must tighten security measures by instituting a system of random pat searches of non-inmates.

As we state in proposed rule § 511.15, random searches will not be based on any particular suspicion that a person is attempting to bring a prohibited object into a Bureau facility. Selecting persons for random searches of their persons and belongings will be done according to impartially and in a non-discriminatory fashion.

#### *Section 511.17 When a Non-Inmate Will Be Denied Entry to, or Required to Leave, a Bureau Facility*

In this rule, we clarify that the Warden or designee, in his/her discretion, may deny entry to, or require a non-inmate to leave a Bureau facility if the non-inmate refuses to be searched under these rules or if reasonable suspicion otherwise exists indicating that a non-inmate 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.

This rule merely restates and consolidates current §§ 511.13(b) and (c) and 511.14.

#### *Section 511.18 When Bureau Staff Can Arrest and Detain a Non-Inmate*

This rule clarifies the Bureau's authority to arrest and detain non-inmates if there is probable cause indicating a violation or attempted violation of applicable criminal law while at a Bureau facility, under 18 U.S.C. 3050. This language is currently found in § 511.10(b). The proposed rule also consolidates and streamlines language found in current §§ 511.15 and 511.16.

The proposed rule also explains that "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. This merely restates the current definition of "probable cause" stated in § 511.11(b).

Finally, the proposed rule indicates that 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, take custody or remove from Bureau property, and consider criminal prosecution. This provision merely restates language found in current § 511.15.

#### **Executive Order 12866**

This rule falls within a category of actions that the Office of Management and Budget (OMB) has determined to constitute "significant regulatory actions" under section 3(f) of Executive Order 12866 and, accordingly, it was reviewed by OMB.

#### **Executive Order 13132**

This regulation will not have substantial direct effects on the States, on the relationship between the national government and the States, or on distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

#### **Regulatory Flexibility Act**

The Director of the Bureau of Prisons, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and by approving it certifies that this regulation will not have a significant economic impact upon a substantial number of small entities for the following reasons: This rule pertains to the correctional management of offenders committed to the custody of the Attorney General or the Director of the Bureau of Prisons, and its economic impact is limited to the Bureau's appropriated funds.

#### **Unfunded Mandates Reform Act of 1995**

This rule will not result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of \$100,000,000 or more in any one year, and it will not

significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

### Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by § 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This rule will not result in an annual effect on the economy of \$100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

### List of Subjects in 28 CFR Part 511

Prisoners.

### Harley G. Lappin,

Director, Bureau of Prisons.

Under rulemaking authority vested in the Attorney General in 5 U.S.C. 301; 28 U.S.C. 509, 510 and delegated to the Director, Bureau of Prisons in 28 CFR 0.96, we propose to revise 28 CFR part 511 as follows.

### Subchapter A—General Management and Administration

### PART 511—GENERAL MANAGEMENT POLICY

1. Revise the authority citation for 28 CFR part 511 to read as follows:

**Authority:** 5 U.S.C. 301; 18 U.S.C. 751, 752, 1791, 1792, 1793, 3050, 3621, 3622, 3624, 4001, 4012, 4042, 4081, 4082 (Repealed as to offenses committed on or after November 1, 1987), 5006–5024 (Repealed October 12, 1984 as to offenses committed after that date), 5039; 28 U.S.C. 509, 510.

2. Subpart B is revised as follows:

### Subpart B—Searching and Detaining or Arresting Non-Inmates

Sec.

- 511.10 Purpose and Scope.
- 511.11 Prohibited activities.
- 511.12 Prohibited objects.
- 511.13 Searches before entering, or while inside, a Bureau facility.
- 511.14 Notification of possible search.
- 511.15 When searches will be conducted.
- 511.16 How searches will be conducted.
- 511.17 When a non-inmate will be denied entry to or required to leave a Bureau facility.
- 511.18 When Bureau staff can arrest and detain a non-inmate.

### § 511.10 Purpose and Scope.

(a) These rules facilitate our legal obligations to ensure the safety,

security, and orderly operation of Bureau of Prisons (Bureau) facilities, and protect the public. These goals are furthered by carefully managing persons, the objects they bring, and their activities, while inside Bureau facilities.

(b) *Purpose.* These rules cover:

(1) Searching persons and their belongings to prevent prohibited objects from entering Bureau facilities;

(2) Authorizing, denying, and/or terminating a person's presence inside a Bureau facility; and

(3) Authorizing Bureau staff to remove from Bureau facilities, and possibly arrest and detain, persons suspected of engaging in prohibited activity.

(c) *Scope/Application.* These rules apply to all persons who wish to enter, or are present inside, Bureau facilities, other than inmates in Bureau custody. This subpart applies at all Bureau facilities, including administrative offices.

### § 511.11 Prohibited activities.

(a) "Prohibited activities" include any activities which could jeopardize the Bureau's ability to ensure the safety, security, and orderly operation of Bureau facilities, and protect the public, whether or not such activities are criminal in nature.

(b) Examples of "prohibited activities" include, but are not limited to: introducing, or attempting to introduce, prohibited objects into Bureau facilities; assisting an escape; and any other conduct which violates criminal laws or is prohibited by Federal regulations or Bureau policies.

### § 511.12 Prohibited objects.

(a) "Prohibited objects," as defined in 18 U.S.C. 1791(d)(1), include any objects which could jeopardize the Bureau's ability to ensure the safety, security, and orderly operation of Bureau facilities, and protect the public.

(b) Examples of "prohibited objects" include, but are not limited to, the following items and their related paraphernalia: weapons; explosives; drugs; intoxicants; currency; cameras of any type; recording equipment; telephones; radios; pagers; and any other objects which violate criminal laws or are prohibited by Federal regulations or Bureau policies.

### § 511.13 Searches before entering, or while inside, a Bureau facility.

Bureau staff may search you and your belongings before entering, or while inside, any of our facilities, to keep out prohibited objects.

### § 511.14 Notification of possible search.

We display conspicuous notices at the entrance to all Bureau facilities,

informing all persons that they, and their belongings, are subject to search before entering, or while inside, Bureau facilities. Furthermore, these rules and Bureau national and local policies provide additional notice that you and your belongings may be searched before entering, or while inside, our facilities. By entering or attempting to enter a Bureau facility, non-inmates consent to being searched in accordance with these rules and Bureau policy.

### § 511.15 When searches will be conducted.

You and your belongings may be searched, either randomly or based on reasonable suspicion, before entering, or while inside, a Bureau facility, as follows:

(a) *Random Searches.* This type of search may occur at any time, and is not based on any particular suspicion that a person is attempting to bring a prohibited object into a Bureau facility.

(1) Random searches must be impartial and not discriminate among non-inmates on the basis of age, race, religion, national origin, or sex.

(2) Non-inmates will be given the option of either consenting to random searches as a condition of entry, or refusing such searches and leaving Bureau property. However, if a non-inmate refuses to submit to a random search and expresses an intent to leave Bureau property, he or she may still be required to be searched if "reasonable suspicion" exists as described in paragraph (b) of this section.

(b) *Reasonable Suspicion Searches.* Notwithstanding staff authority to conduct random searches, staff may also conduct *reasonable suspicion* searches to ensure the safety, security, and orderly operation of Bureau facilities, and protect the public. "Reasonable suspicion" exists if a staff member knows of facts and circumstances which warrant rational inferences by a person with correctional experience that a person may be engaged in, attempting, or about to engage in, criminal or other prohibited activity.

### § 511.16 How searches will be conducted.

You may be searched by any of the following methods before entering, or while inside, a Bureau facility:

(a) *Electronically.*

(1) You and your belongings may be electronically searched for the presence of contraband, either randomly or upon reasonable suspicion.

(2) Examples of electronic searches include, but are not limited to metal detectors, and ion spectrometry devices.

(b) *Pat Search.*

(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.

[FR Doc. E6-1159 Filed 1-30-06; 8:45 am]

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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.