

**PART 27—WHISTLEBLOWER
PROTECTION FOR FEDERAL BUREAU
OF INVESTIGATION EMPLOYEES**

■ 3. The authority for citation for part 27 continues to read as follows:

Authority: 5 U.S.C. 301, 3151; 28 U.S.C. 509, 510, 515–519; 5 U.S.C. 2303; President's Memorandum to the Attorney General, Delegation of Responsibilities Concerning FBI Employees Under the Civil Service Reform Act of 1978, 3 CFR p. 284 (1997).

■ 4. Revise § 27.1 to read as follows:

§ 27.1 Making a protected disclosure.

(a) When an employee of, or applicant for employment with, the Federal Bureau of Investigation (FBI) (FBI employee) makes a disclosure of information to the Department of Justice's (Department's) Office of Professional Responsibility (OPR), the Department's Office of Inspector General (OIG), the FBI Office of Professional Responsibility (FBI OPR), the FBI Inspection Division (FBI-INSD) Internal Investigations Section (collectively, Receiving Offices), the Attorney General, the Deputy Attorney General, the Director of the FBI, the Deputy Director of the FBI, or to the highest ranking official in any FBI field office, the disclosure will be a "protected disclosure" if the person making it reasonably believes that it evidences:

(1) A violation of any law, rule or regulation; or
(2) Mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.

(b) Any office or official (other than the OIG or OPR) receiving a protected disclosure shall promptly report such disclosure to the OIG or OPR for investigation. The OIG and OPR shall proceed in accordance with procedures establishing their respective jurisdiction. The OIG or OPR may refer such allegations to FBI-INSD Internal Investigations Section for investigation unless the Deputy Attorney General determines that such referral shall not be made.

■ 5. Revise paragraph (e)(1) of § 27.4 to read as follows:

§ 27.4 Corrective action and other relief; Director, Office of Attorney Recruitment and Management.

* * * * *

(e)(1) The Director shall determine, based upon all the evidence, whether a protected disclosure was a contributing factor in a personnel action taken or to be taken. Subject to paragraph (e)(2) of this section, if the Director determines that a protected disclosure was a

contributing factor in a personnel action taken or to be taken, the Director shall order corrective action as the Director deems appropriate. The Director may conclude that the disclosure was a contributing factor in the personnel action based upon circumstantial evidence, such as evidence that the employee taking the personnel action knew of the disclosure and that the personnel action occurred within a period of time such that a reasonable person could conclude that the disclosure was a contributing factor in the personnel action.

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Dated: December 28, 2007.

Michael B. Mukasey,
Attorney General.

[FR Doc. 08-7 Filed 1-8-08; 8:45 am]

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**DEPARTMENT OF HOMELAND
SECURITY**

Coast Guard

33 CFR Part 117

[Docket No. CGD07-07-107]

RIN 1625-AA09

Drawbridge Operation Regulation; Gulf Intracoastal Waterway, Mile 131.8, Clearwater, FL

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is changing the operating regulations governing the Belleair Beach Bridge, Gulf Intracoastal Waterway, mile 131.8, Clearwater, Florida. This rule will allow the bridge to open on signal, except that from 7 a.m. to 7 p.m. this bridge will open on the hour and half-hour. This action is necessary for workers' safety and will assist in expediting the construction of the new bridge.

DATES: This rule is effective February 8, 2008.

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 [Docket No. CGD07-07-107] and are available for inspection or copying at Commander (dph), Seventh Coast Guard District, 909 S.E. 1st Avenue, Room 432, Miami, Florida 33131-3028, 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 Administration Branch, telephone number 305-415-6744.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On June 18, 2007, we published a notice of proposed rulemaking (NPRM) entitled Drawbridge Operation Regulations; Gulf Intracoastal Waterway, mile 131.8, Clearwater, FL in the **Federal Register**, 72 FR 33423-33425. We received no comments on the proposed rule. No public meeting was requested, and none was held.

Background and Purpose

The existing regulation of the draw requires that the Belleair Beach Bridge, mile 131.8, Clearwater, FL shall open on signal; except that, from 12 noon to 6 p.m., on Saturdays, Sundays, and holidays, the draw need open only on the hour, quarter hour, half hour, and three-quarter hour.

Due to the construction of the new Belleair Beach high level fixed bridge, ECDriver, representing the owner of the bridge, requested that the Coast Guard change the current operation of the Belleair Beach Bridge. The bridge will be required to open twice an hour from 7 a.m. to 7 p.m. In addition, the waterway may be restricted or closed for short periods to allow for construction of the new bridge. Exact times and dates of any waterway restrictions and closures and bridge restrictions will be published in the Local Notice to Mariners and Broadcast Notice to Mariners. In cases of emergency, the bridge will be opened as soon as possible. This regulation is necessary for workers safety and will assist in expediting construction of the new bridge. Once the new Belleair Beach high level fixed bridge is near completion, we will propose to remove the regulation for the old drawbridge, as it will no longer be necessary.

Discussion of Comments and Changes

The Coast Guard received no comments in response to the notice of proposed rulemaking (NPRM). For this reason no changes were made to the proposed regulation.

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.

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.

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 would affect the following entities, some of which may be small entities: The owners or operators of vessels needing to transit the Gulf Intracoastal Waterway in the vicinity of the Belleair Beach Bridge, persons intending to drive over the bridge, and nearby business owners. The revision to the openings schedule would not have a significant impact on a substantial number of small entities. Although bridge openings will be restricted, vessel traffic will still be able to transit the Gulf Intracoastal Waterway pursuant to the revised opening schedule.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 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). 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 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. Though 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 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 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 would 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.

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

Environment

We have analyzed this 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 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.

■ 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; 33 CFR 1.05-1(g); Department of Homeland Security Delegation No. 0170.1.

■ 2. Revise § 117.287(i) to read as follows:

§ 117.287 Gulf Intracoastal Waterway.

* * * * *

(i) The draw of the Belleair Beach Drawbridge, mile 131.8, Clearwater, FL shall open on signal, except that from 7 a.m. to 7 p.m., the bridge shall open on the hour and half-hour.

* * * * *

Dated: December 10, 2007.

William D. Lee,

*Captain, U.S. Coast Guard, Acting
Commander, Seventh Coast Guard.*

[FR Doc. E8-191 Filed 1-8-08; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 50

[EPA-HQ-OAR-2001-0017; FRL-8502-3]

RIN 2060-AO59

Interpretation of the National Ambient Air Quality Standards for PM_{2.5}— Correcting and Simplifying Amendment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA recently finalized changes to the data handling conventions and computations necessary for determining when the annual and 24-hour national ambient air quality standards (NAAQS) for fine particles (generally referring to particles less than or equal to 2.5 micrometers (μm) in diameter, PM_{2.5}) are met. These changes were made in support of revisions to the NAAQS for particulate matter (PM) that were finalized in the same rulemaking. After publication, EPA discovered an inadvertent omission in the rule text explaining the procedures for calculating the key statistic (98th percentile) involved with determining compliance with the 24-hour PM_{2.5} standard in locations where extra samples of PM_{2.5} in ambient air were taken above the specified sampling frequency. If the error in the regulatory text is left unchanged, the resulting statistic for calculating compliance with the 24-hour PM_{2.5} standard would be biased low at some samplers, leading to potentially incorrect determinations that an area was attaining the NAAQS. In this direct final action, EPA is correcting this error. The correction involves the replacement of the currently used statistical formula and instructions with a simpler look-up table approach which is easier for readers to understand and which retains the intended numerical consistency with EPA's historic practice.

DATES: This rule is effective on April 8, 2008 without further notice, unless EPA receives adverse comment by February 8, 2008. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that this direct final rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-HQ-OAR-2001-0017 by one of the following methods:

- *www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *E-mail:* a-and-r-docket@epa.gov.
- *Fax:* (202) 566-9744.
- *Mail:* Review of the National Ambient Air Quality Standards (NAAQS) for Particulate Matter (PM), Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. Please include a total of two copies.
 - *Hand Delivery:* EPA Docket Center, 1301 Constitution Avenue, NW., EPA Headquarters Library, Room 3334, EPA West Building, Washington, DC 20460. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA-HQ-OAR-2001-0017. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at: <http://www.regulations.gov> including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through www.regulations.gov or e-mail. The www.regulations.gov Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through www.regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact

you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket, visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

Docket: All documents in the docket are listed in the www.regulations.gov index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in www.regulations.gov or in hard copy at the Review of the National Ambient Air Quality Standards (NAAQS) for Particulate Matter (PM) Docket, EPA/DC, EPA West Building, EPA Headquarters Library, Room 3334, Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the Air Docket is (202) 566-1742.

FOR FURTHER INFORMATION CONTACT: For general questions, please contact Mr. Lewis Weinstock, U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Air Quality Assessment Division, Ambient Air Monitoring Group (C304-06), Research Triangle Park, North Carolina 27711; telephone number: (919) 541-3661; fax number: (919) 541-1903; e-mail address: weinstock.lewis@epa.gov. For technical questions, please contact Mr. Mark Schmidt, U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Air Quality Assessment Division, Air Quality Analysis Group (C304-04), Research Triangle Park, North Carolina 27711; telephone number: (919) 541-2416; fax number: (919) 541-1903; e-mail address: schmidt.mark@epa.gov.

SUPPLEMENTARY INFORMATION:

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