

Panama exported an average of about 20 metric tons (MT) of peppers to the United States annually from 1998 to 2001. The United States has not imported peppers from Panama since 2001. We model three levels of pepper exports to the United States from Panama, of increasing magnitude: (i) 20 MT; (ii) the maximum annual quantity exported by Panama to all countries in the most recent years it had export data (29 MT); and (iii) 10 times the maximum quantity exported (290 MT). The largest assumed level of U.S. imports is less than is 0.02 percent of average annual U.S. consumption. Even when assuming the largest import quantity and no displacement of imports from other countries, the welfare loss for U.S. small-entity producers would be equivalent to less than 0.05 percent of their average revenue. U.S. producers of peppers are predominantly small. Other small entities that could be affected by the rule include fresh pepper importers.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action would not have a significant economic impact on a substantial number of small entities.

#### Executive Order 12988

This proposed rule would allow peppers to be imported into the United States from Panama. If this proposed rule is adopted, State and local laws and regulations regarding peppers imported under this rule would be preempted while the fruit is in foreign commerce. Fresh fruits and vegetables are generally imported for immediate distribution and sale to the consuming public and would remain in foreign commerce until sold to the ultimate consumer. The question of when foreign commerce ceases in other cases must be addressed on a case-by-case basis. If this proposed rule is adopted, no retroactive effect will be given to this rule, and this rule will not require administrative proceedings before parties may file suit in court challenging this rule.

#### Paperwork Reduction Act

This proposed rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

#### List of Subjects in 7 CFR Part 319

Coffee, Cotton, Fruits, Imports, Logs, Nursery stock, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Rice, Vegetables.

Accordingly, we propose to amend 7 CFR part 319 as follows:

#### PART 319—FOREIGN QUARANTINE NOTICES

1. The authority citation for part 319 continues to read as follows:

**Authority:** 7 U.S.C. 450, 7701-7772, and 7781-7786; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

2. Section 319.56-40 is amended by revising the introductory text of the section and paragraphs (a)(2), (b)(3)(v), and (c)(3)(v) to read as follows.

#### § 319.56-40 Peppers from certain Central American countries.

Fresh peppers (*Capsicum* spp.) may be imported into the United States from Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, and Panama only under the following conditions and in accordance with all other applicable provisions of this subpart:

(a) \* \* \*

(2) A pre-harvest inspection of the growing site must be conducted by the national plant protection organization (NPPO) of the exporting country for the weevil *Faustinus ovatipennis*, pea leafminer, tomato fruit borer, lantana mealybug, passionvine mealybug, melon thrips, bacterial wilt, the rust fungus *Puccinia pampeana*, Andean potato mottle virus, and tomato severe leaf curl virus, and if these pests are found to be generally infesting the growing site, the NPPO may not allow export from that production site until the NPPO has determined that risk mitigation has been achieved.

\* \* \* \* \*

(b) \* \* \*

(3) \* \* \*

(v) The greenhouse must be inspected prior to harvest for the weevil *Faustinus ovatipennis*, pea leafminer, tomato fruit borer, lantana mealybug, passionvine mealybug, melon thrips, bacterial wilt, the rust fungus *Puccinia pampeana*, Andean potato mottle virus, and tomato severe leaf curl virus. If these pests, or other quarantine pests, are found to be generally infesting the greenhouse, export from that production site will be halted until the exporting country's NPPO determines that the pest risk has been mitigated.

\* \* \* \* \*

(c) \* \* \*

(3) \* \* \*

(v) The greenhouse must be inspected prior to harvest for the weevil *Faustinus ovatipennis*, pea leafminer, tomato fruit borer, lantana mealybug, passionvine mealybug, melon thrips, bacterial wilt, the rust fungus *Puccinia pampeana*, Andean potato mottle virus, and tomato

severe leaf curl virus. If these pests, or other quarantine pests, are found to be generally infesting the greenhouse, export from that production site will be halted until the exporting country's NPPO determines that the pest risk has been mitigated.

\* \* \* \* \*

Done in Washington, DC, this 24<sup>th</sup> day of May 2010.

**Kevin Shea**

*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 2010-13002 Filed 5-28-10; 12:33 pm]

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#### DEPARTMENT OF HOMELAND SECURITY

#### Coast Guard

#### 33 CFR Part 117

[Docket No. USCG-2009-0073]

RIN 1625-AA09

#### Drawbridge Operation Regulation; Perquimans River, Hertford, NC

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking; withdrawal.

**SUMMARY:** The Coast Guard is withdrawing its notice of proposed rulemaking concerning the proposed change to the regulations that governed the operation of the US17 Bridge, at mile 12.0, across Perquimans River at Hertford, NC. The requested change would have allowed the bridge to operate without a tender during specific times of the year on an advance notice basis.

**DATES:** The notice of proposed rulemaking is withdrawn on June 1, 2010.

**ADDRESSES:** The docket for this withdrawn rulemaking is available for inspection or copying at the Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet by going to <http://www.regulations.gov>, inserting USCG-2009-0073 in the "Keyword" box and then clicking "Search".

**FOR FURTHER INFORMATION CONTACT:** If you have questions about this notice, call or e-mail Sandra S. Elliott, Fifth Coast Guard District; telephone (757) 398-6557, e-mail

*Sandra.s.elliott@uscg.mil*. If you have questions on viewing material in the docket call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

#### SUPPLEMENTARY INFORMATION:

##### Background

On March 13, 2009, we published a notice of proposed rulemaking (NPRM) entitled "Drawbridge Operation Regulations; Perquimans River, Hertford, NC" in the Federal Register (74 FR 10850-10853). The rulemaking would have allowed the drawbridge to operate on an advance notice basis during specific times of the year. Officials from the Town of Hertford commented that not maintaining a tender during peak boating times would have an adverse impact on public safety.

##### Withdrawal

The North Carolina Department of Transportation (NCDOT), responsible for the operation of the US17 Bridge, had requested advance notification of vessel openings during specific times of the year due to the infrequency of requests for vessel openings of the drawbridge.

The Coast Guard received several comments opposing changes to the proposed rulemaking. We conducted a lengthy and thorough investigation that included a site visit and a meeting with officials of the Town of Hertford. The Coast Guard met with the Mayor, Town Manager, Town Planner and a representative from NCDOT. We also met separately with a marina owner and the Chief of the Water Rescue team.

Our investigation along with the majority of the comments revealed that the rulemaking could impose critical service delays to commercial and recreational boaters and impede the ability of rescue boats to arrive promptly on scene. The withdrawal is based on the reason that this change would not improve the schedule for roadway and waterway users.

##### Authority

This action is taken under the authority of 33 U.S.C. 499; 33 CFR 1.05-1; Department of Homeland Security Delegation No. 0170.1.

Dated: May 11, 2010.

##### Wayne E. Justice,

*Real Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.*

[FR Doc. 2010-12980 Filed 5-28-10; 8:45 am]

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## DEPARTMENT OF VETERANS AFFAIRS

### 38 CFR Part 17

RIN 2900-AN45

#### Responding To Disruptive Patients

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Proposed rule.

**SUMMARY:** This document proposes to amend the Department of Veterans Affairs (VA) regulation that authorizes appropriate action when a patient engages in disruptive behavior at a VA medical facility. VA needs to update its current regulation to reflect modern medical care and ethical practices. The proposed rule would authorize VA to modify the time, place, and/or manner in which VA provides treatment to a patient, in order to ensure the safety of others at VA medical facilities, and to prevent any interference with the provision of medical care.

**DATES:** *Comment Date:* Comments on the proposed rule must be received by VA on or before August 2, 2010.

**ADDRESSES:** Written comments may be submitted through <http://www.Regulations.gov>; by mail or hand-delivery to the Director, Regulations Management (02REG), Department of Veterans Affairs, 810 Vermont Avenue, NW., Room 1068, Washington, DC 20420; or by fax to (202) 273-9026. Comments should indicate that they are submitted in response to "RIN 2900-AN45—Responding To Disruptive Patients." Copies of comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1063B, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays). Please call (202) 461-4902 for an appointment. This is not a toll free number. In addition, during the comment period, comments may be viewed online at <http://www.Regulations.gov> through the Federal Docket Management System (FDMS).

#### FOR FURTHER INFORMATION CONTACT:

Roscoe Butler, Deputy Director, Business Policy, Chief Business Office (163), Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 461-1586. (This is not a toll free number.)

**SUPPLEMENTARY INFORMATION:** Under 38 U.S.C. chapters 17 and 18, VA has authority to provide medical care to certain veterans and nonveterans. VA is required, per 38 U.S.C. 1721, to prescribe rules and regulations to promote good conduct on the part of VA

patients. VA has implemented this authority in 38 CFR part 17.

Regarding the rights of patients receiving VA care, 38 CFR 17.33(a) prescribes, in part, that patients have "a right to be treated with dignity in a humane environment that affords them both reasonable protection from harm and appropriate privacy with regard to their personal needs." Patients also have "a right to receive, to the extent of eligibility therefor under the law, prompt and appropriate treatment for any physical or emotional disability." Section 17.33(b) also prescribes rights with respect to visitations and communications, clothing, personal possessions, money, social interaction, exercise, and worship for VA residents and inpatients. These rights may be restricted by the appropriate health care professional in certain circumstances. See 38 CFR 17.33(c). The restrictions authorized by § 17.33(c), however, do not apply to outpatients and only cover restrictions on the listed rights. In certain cases, VA must restrict the provision of medical care to a patient in order to prevent harm to other patients and VA staff and disruptions in VA's provision of medical care due to the patient's behavior.

VA regulations also prescribe rules of conduct for patients and other individuals who have access to VA facilities. See 38 CFR 1.218. In particular, § 1.218(a)(5) prohibits persons on VA property from causing a wide variety of disturbances, including creating "loud or unusual noise," obstructing public areas, and impeding or disrupting "the performance of official duties by Government employees." The sole enforcement mechanism provided by paragraph (a)(5) is "arrest and removal from the premises." 38 CFR 1.218(a)(5). VA has determined that arrest is generally not an appropriate remedy in a situation where the Department must balance the rights and needs of a disruptive patient against the need to protect other patients, guests, and staff. Some patients establish a pattern of disruptive behavior when interacting with VA personnel or when they are on VA property, and we believe that by understanding these patterns of behavior, planning for such behavior in advance, and setting safe conditions for care delivery, we can intervene in ways that can prevent subsequent episodes requiring removal and arrest.

In addition to §§ 1.218 and 17.33, the behavior of patients is specifically governed by current 38 CFR 17.106. It requires, in part, that VA maintain the good conduct of patients through "corrective and disciplinary procedure."