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Signed at Washington, DC, this 14th day of June, 2004.

**John L. Henshaw,**

*Assistant Secretary of Labor for Occupational Safety and Health.*

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 117

[CGD01-04-030]

RIN 1625-AA09

#### Drawbridge Operation Regulations; Mystic River, MA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to temporarily change the drawbridge operating regulations governing the operation of the S99 (Alford Street) Bridge, at mile 1.4, across the Mystic River, Massachusetts. Under this proposed rule the bridge may remain closed to vessel traffic from 7 a.m. on July 26, 2004 through 7 a.m. on July 30, 2004. Vessels that can pass under the draw without a bridge opening may do so at all times. This action is necessary in the interest of public safety to facilitate vehicular traffic during the Democratic National Convention.

**DATES:** Comments and related material must reach the Coast Guard on or before July 8, 2004.

**ADDRESSES:** You may mail comments and related material to Commander (obr), First Coast Guard District Bridge Branch, 408 Atlantic Avenue, Boston, Massachusetts, 02110, or deliver them to the same address between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (617) 223-8364. The First Coast Guard District, Bridge Branch, 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 and will be available for inspection or copying at the First Coast Guard District, Bridge Branch, 7 a.m. to 3 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** John McDonald, Project Officer, First Coast Guard District, (617) 223-8364.

#### SUPPLEMENTARY INFORMATION:

##### Request for Comments

We encourage you to participate in this rulemaking by submitting comments or related material. If you do so, please include your name and address, identify the docket number for this rulemaking (CGD01-04-030), 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 if 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

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to the First Coast Guard District, Bridge Branch, at the address under **ADDRESSES** 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

The S99 (Alford Street) Bridge, mile 1.4, across the Mystic River has a vertical clearance in the closed position of 7 feet at mean high water and 16 feet at mean low water. The existing drawbridge operation regulations are listed at 33 CFR § 117.609.

The bridge owner, the City of Boston, requested that the S99 (Alford Street) Bridge remain closed to vessel traffic during the Democratic National Convention (DNC) from 7 a.m. on July 26, 2004 through 7 a.m. on July 30, 2004. Vessels that can pass under the draw without a bridge opening may do so at all times.

During the DNC several primary vehicular traffic routes, including I-93 to Boston, and the North Station commuter rail station will be closed.

It is anticipated that much of the detoured vehicular traffic will be using Route 99 to drive into and through Boston during the week the DNC is underway. Rail commuters that normally transit to North Station will be bussed into Boston utilizing Route 99 as a detour route as a result of the North Station commuter rail station closure.

The bridge owner; therefore, has requested that the S99 (Alford Street) Bridge remain closed to facilitate the expected heavy vehicular traffic in the interest of public safety.

A shortened comment period of 20 days is necessary to allow this rule to become effective in time for the start of the DNC on July 26, 2004.

##### Discussion of Proposal

This proposed change would amend 33 CFR § 117.609 by suspending paragraph (a) and adding a new temporary paragraph (c) from July 26, 2004 through July 30, 2004.

Under this proposed rule the S99 (Alford Street) Bridge may remain closed to vessel traffic from 7 a.m. on July 26, 2004 through 7 a.m. on July 30, 2004.

This action is necessary to facilitate anticipated heavy vehicular traffic during the Democratic National Convention in the interest of public safety.

##### 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 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.

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation, under the regulatory policies and procedures of DHS, is unnecessary.

This conclusion is based on the fact that most vessel traffic on the Mystic River can pass under the bridge without a bridge opening at various stages of the tide.

##### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we 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 section 5 U.S.C. 605(b), that this proposed rule would not have a significant economic impact on a substantial number of small entities.

This conclusion is based on the fact that most vessel traffic on the Mystic River can pass under the bridge without a bridge opening at various stages of the tide.

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 (*see ADDRESSES*) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

#### 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 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 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 E.O. 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 may 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 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. The Administrator of the Office of Information and Regulatory Affairs has not declared 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 proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

#### Environment

We have analyzed this proposed 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 environment documentation because it has been determined that the promulgation of operating regulations or procedures for drawbridges are categorically excluded.

#### List of Subjects in 33 CFR Part 117

Bridges.

#### Regulations

For the reasons set out 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; Department of Homeland Security Delegation No. 0170.1; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. In § 117.609, from July 26, 2004 through July 30, 2004, paragraph (a) is temporarily suspended and a new temporary paragraph (c) is added to read as follows:

#### § 117.609 Mystic River.

\* \* \* \* \*

(c) The draw of the S99 Bridge need not open for the passage of vessel traffic from 7 a.m. on July 26, 2004 through 7 a.m. on July 30, 2004.

Dated: June 3, 2004.

**Vivien S. Crea,**

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

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#### DEPARTMENT OF HOMELAND SECURITY

#### Coast Guard

#### 33 CFR Part 117

[CGD11–03–005]

RIN 1625–AA09

#### Drawbridge Operation Regulations; Connection Slough, Stockton, CA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Supplemental notice of proposed rulemaking.

**SUMMARY:** The Coast Guard has revised its proposal to amend the regulations governing the operation of the