

after not more than 90 days from the date of inquiry; and

(iii) In cases of NICS Audit Log records relating to allowed transactions, all identifying information submitted by or on behalf of the transferee will be destroyed within 24 hours after the FFL receives communication of the determination that the transfer may proceed. All other information, except the NTN and date, will be destroyed after not more than 90 days from the date of inquiry.

(2) *Use of information in the NICS Audit Log.* The NICS Audit Log will be used to analyze system performance, assist users in resolving operational problems, support the appeals process, or support audits of the use and performance of the system. Searches may be conducted on the Audit Log by time frame, *i.e.*, by day or month, or by a particular state or agency. Information in the NICS Audit Log pertaining to allowed transactions may be accessed directly only by the FBI and only for the purpose of conducting audits of the use and performance of the NICS, except that:

(i) Information in the NICS Audit Log, including information not yet destroyed under § 5.9(b)(1)(iii), that indicates, either on its face or in conjunction with other information, a violation or potential violation of law or regulation, may be shared with appropriate authorities responsible for investigating, prosecuting, and/or enforcing such law or regulation; and

(ii) The NTNs and dates for allowed transactions may be shared with ATF in Individual FFL Audit Logs as specified in § 25.9(b)(4).

(3) *Limitation on use.* The NICS, including the NICS Audit Log, may not be used by any Department, agency, officer, or employee of the United States to establish any system for the registration of firearms, firearm owners, or firearm transactions or dispositions, except with respect to persons prohibited from receiving a firearm by 18 U.S.C. 922(g) or (n) or by state law. The NICS Audit Log will be monitored and reviewed on a regular basis to detect any possible misuse of NICS data.

(4) *Creation and Use of Individual FFL Audit Logs.* Upon written request from ATF containing the name and license number of the FFL and the proposed date of inspection of the named FFL by ATF, the FBI may extract information from the NICS Audit Log and create an Individual FFL Audit Log for transactions originating at the named FFL for a limited period of time. An Individual FFL Audit Log shall contain all information on denied transactions, and, with respect to all other

transactions, only non-identifying information from the transaction. In no instance shall an Individual FFL Audit Log contain more than 60 days worth of allowed or open transaction records originating at the FFL. The FBI will provide POC states the means to provide to the FBI information that will allow the FBI to generate Individual FFL Audit Logs in connection with ATF inspections of FFLs in POC states. POC states that elect not to have the FBI generate Individual FFL Audit Logs for FFLs in their states must develop a means by which the POC will provide such Logs to ATF.

* * * * *

§ 25.10 [Amended]

■ 5. In § 25.10, a new paragraph (g) is added to read as follows:

* * * * *

(g) An individual may provide written consent to the FBI to maintain information about himself or herself in a Voluntary Appeal File to be established by the FBI and checked by the NICS for the purpose of preventing the future erroneous denial or extended delay by the NICS of a firearm transfer. Such file shall be used only by the NICS for this purpose. The FBI shall remove all information in the Voluntary Appeal File pertaining to an individual upon receipt of a written request by that individual. However, the FBI may retain such information contained in the Voluntary Appeal File as long as needed to pursue cases of identified misuse of the system. If the FBI finds a disqualifying record on the individual after his or her entry into the Voluntary Appeal File, the FBI may remove the individual's information from the file.

Dated: July 20, 2004.

John Ashcroft,
Attorney General.

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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: Temporary final rule.

SUMMARY: The Coast Guard has temporarily changed the drawbridge

operation regulations that govern the operation of the S99 (Alford Street) Bridge, at mile 1.4, across the Mystic River, Massachusetts. Under this temporary final rule, effective from 7 a.m. on July 26, 2004 through 7 a.m. on July 30, 2004, the S99 (Alford Street) Bridge shall open on signal only between 4 a.m. and 5 a.m., daily. 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: This rule is effective from July 26, 2004 through July 30, 2004.

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 (CGD01-04-030) and are available for inspection or copying at the First Coast Guard District, Bridge Branch Office, 408 Atlantic Avenue, Boston, Massachusetts, 02110, between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Gary Kassof, Bridge Administrator, First Coast Guard District, (212) 668-7165.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On June 18, 2004, we published a notice of proposed rulemaking (NPRM) entitled Drawbridge Operation Regulations, Mystic River, Massachusetts, in the **Federal Register** (69 FR 34099). The Coast Guard provided a 20-day comment period to the public to comment on the proposed rule. We received one comment letter in response to the notice of proposed rulemaking. No public hearing was requested and none was held.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds good cause exists for making this rule effective less than 30 days after publication in the **Federal Register** because this final rule needs to be in effect on July 26, 2004, in order to provide the necessary safeguards in the interest of national security and public safety during the week the Democratic National Convention (DNC) will be convened in Boston, Massachusetts.

Background and Purpose

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, and the North Station commuter rail station will be closed for security purposes.

Route 99 has been designated as the alternate detour route to accommodate much of the detoured vehicular traffic and buses transporting commuter rail passengers 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.

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

Discussion of Proposal

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

Under this temporary final rule, effective from 7 a.m. on July 26, 2004 through 7 a.m. on July 30, 2004, the S99 (Alford Street) Bridge shall open on signal only between 4 a.m. and 5 a.m., daily.

Discussion of Comments and Changes

The Coast Guard received one comment letter in response to the notice of proposed rulemaking.

The comment letter was from the Mystic Wellington Yacht Club, which is located upstream from the S99 (Alford Street) Bridge. The yacht club's letter stated that the members of the yacht club did not pose a threat to the public and that it would impose a hardship because members would not be able to pass through the bridge.

The bridge is not being closed due to waterborne threats. The bridge is being closed to facilitate the anticipated heavy vehicular traffic during the week of the DNC. Route 99 has been designated as a detour route for the displaced vehicular traffic and buses ferrying commuter rail passengers to Boston. The closure of the S99 (Alford Street) Bridge will help facilitate the movement of detoured vehicular traffic traveling Route 99 as a result of the closure of the Amtrak commuter rail station in Boston and the closure of the I-93 highway

during the week the DNC will hold its convention.

The Coast Guard determined, as a result of the comment received, to allow the S99 (Alford Street) Bridge to open on signal each day between 4 a.m. and 5 a.m. to facilitate marine traffic that can't pass under the draw in the closed position.

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. It is not "significant" under the regulatory policies and procedures of the Department of Homeland Security (DHS).

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 the bridge shall open on signal between 4 a.m. and 5 a.m., daily during the effective period, for vessels that cannot transit underneath.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we 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 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 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 the bridge shall open on signal between 4 a.m. and 5 a.m., daily during the effective period, for vessels that cannot transit underneath.

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.

No small entities requested Coast Guard assistance and none was given.

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 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 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 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 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

does not concern 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 does not have 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 M16475.1D, 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 environmental documentation. It has been determined that this final rule does not significantly impact the environment.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

■ For the reasons set out 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; 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 (Alford Street) Bridge shall open on signal only between 4 a.m. and 5 a.m. each day from 7 a.m. on July 26, 2004 through 7 a.m. on July 30, 2004.

Dated: July 14, 2004.

David P. Pekoske,

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

[CGD01-04-080]

Drawbridge Operation Regulations: Jamaica Bay and Connecting Waterways, NY

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, First Coast Guard District, has issued a temporary deviation from the drawbridge operation regulations for the Marine Parkway Bridge across Jamaica Bay, mile 3.0,

between Brooklyn and Queens, New York. This temporary deviation will allow the bridge to open (50) fifty feet less than the normal opening vertical clearance from August 16, 2004, through October 10, 2004. This temporary deviation is necessary to facilitate maintenance repairs at the bridge.

DATES: This deviation is effective from August 16, 2004, through October 10, 2004.

FOR FURTHER INFORMATION CONTACT: Ms. Judy Leung-Yee, Project Officer, First Coast Guard District Bridge Branch, (212) 668-7195.

SUPPLEMENTARY INFORMATION:

The normal vertical clearance under the Marine Parkway Bridge in the full open position is 152 feet at mean high water and 156 feet at mean low water. The existing regulations are listed at 33 CFR 117.795(a).

The bridge owner, MTA Bridges and Tunnels Authority, requested a temporary deviation from the Drawbridge Operation Regulations to facilitate necessary maintenance repairs at the bridge.

During the bridge repairs safety netting will be suspended under the bridge towers preventing the bridge from fully opening and therefore reducing the vertical clearance during bridge openings by (50) fifty feet.

The normal maximum vertical clearance under the bridge in the full open position is 156 feet at mean low water and 152 feet at mean high water. A review of the bridge opening logs and opening requests revealed that the bridge normally does not open more than (90) ninety feet for the passage of vessel traffic. As a result none of the normal waterway users should be affected by this vertical clearance reduction.

Under this temporary deviation the Marine Parkway Bridge, mile 3.0, across Jamaica Bay, shall open for vessel traffic only up to a maximum of 106 feet at mean low water and 102 feet at mean high water from August 16, 2004, through October 10, 2004.

This deviation from the operating regulations is authorized under 33 CFR 117.35, and will be performed with all due speed in order to return the bridge to normal operation as soon as possible.

Dated: July 14, 2004.

David P. Pekoske,

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

[FR Doc. 04-16838 Filed 7-22-04; 8:45 am]

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