Commander Samuel R. Watkins. Project Counsel, District Legal Office.

### **Background and Purpose**

The Lagoon Pond Bridge over Lagoon Pond in Tisbury, Massachusetts, has a vertical clearance of 15' above mean high water (MHW) and 17' above mean low water (MLW). Through an error, the previous special operating regulations for this bridge were deleted from 33 CFR 117.79. Therefore, the bridge currently is required to open on signal at all times under the general operating regulations for drawbridges. Regulations published in the Federal Register of October 7, 1982 (47 FR 44258) required that the

(a) Open on signal from September 16 through May 14 provided 24 hours

advance notice is given.
(b) From May 15 through September 15, open on signal only from 8:15 a.m. to 8:45 a.m., 10:15 a.m. to 11 a.m., 3:15 p.m. to 4 p.m., 5 p.m. to 5:45 p.m., and 7:30 p.m. to 8 p.m. Throughout the remainder of this period, the draw was required to open for the passage of vessels if 4 (four) hours advance notice

(c) Open at any time for public vessels of the United States, any vessels of state or municipal governments used for public safety, and in case of emergency or during severe storm conditions.

The bridge owner, the Massachusetts Highway Department (MHD), has been operating the bridge in accordance with the deleted regulations on an unofficial basis. The Coast Guard is proposing to publish regulations that reinstate the operating hours of the bridge contained in the erroneously deleted rule.

# **Discussion of Proposed Amendments**

The MHD, after being advised of the deletion of the regulations covering the Lagoon Pond Bridge, requested that operating hours for the bridge be published to read as follows:

(a) The draw shall open on signal from May 15 through September 15, from 8:15 a.m. to 8:45 a.m., from 10:15 a.m. to 11 a.m., from 3:15 p.m. to 4 p.m., from 5 p.m. to 5:45 p.m., and from 7:30 p.m. to 8 p.m. At all other times the draw will open for the passage of vessels if at least four (4) hours advance notice is given by calling the number posted at the bridge.

(b) The draw shall open on signal from September 16 through May 14, if at least twenty-four (24) hours advance notice is given by calling the number

posted at the bridge.

(c) The owners of this bridge shall provide, and keep in good legible condition, clearance gauges for each draw with figures not less than twelve (12) inches high designed, installed and maintained according to the provisions of §118.160 of this chapter.

Under the proposed rule, Appendix A to Part 117 also will be amended to add the Lagoon Pond Bridge (under the Massachusetts subheading) to advise mariners that a marine radio is installed

at the bridge for requesting openings.
The public vessel/emergency opening provisions of the deleted rule will not be incorporated into the proposed new rule. Those provisions are now contained in 33 CFR 117.31, a general regulation applicable to all drawbridges.

#### Regulatory Evaluation

This proposal is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation, under paragraph 10e of the regulatory policies and procedures of DOT, is unnecessary. This conclusion is based on the fact that the regulation will not prevent mariners from transiting the Lagoon Pond Bridge. It will require only that mariners plan their transits.

### **Small Entities**

Under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), the Coast Guard must consider whether this proposal if adopted, will have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated small businesses that are not dominant in their fields and that otherwise qualify as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632). For the reasons discussed in the Regulatory Evaluation above, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposal, if adopted, will not have a significant economic impact on a substantial number of small entities.

### **Collection of Information**

This proposal contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 et seq.).

## **Federalism**

The Coast Guard has analyzed this proposal under the principles and

criteria contained in Executive Order 12612 and has determined that this proposal does not have sufficient federalism implications to warrant preparation of a Federalism Assessment.

#### **Environment**

The Coast Guard considered the environmental impact of this proposal and concluded that, under paragraph 2.B.2.e.(32)(e) of Commandant Instruction M16475.1B, this proposal is categorically excluded from further environmental documentation. A "Categorical Exclusion Determination" is available in the docket for inspection or copying where indicated under ADDRESSES.

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

Bridges.

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; 49 CFR 1.46; 33 CFR 1.05-1(g); section 117.255 also issued under the authority of Pub. L. 102-587, 106 Stat. 5039.

2. Section 117.600 is added to read as follows:

# §117.600 Lagoon Pond.

The draw of the Lagoon Pond Bridge, mile 0.0, in Tisbury, Massachusetts, shall operate as follows:

- (a) The draw shall open on signal from May 15 through September 15, from 8:15 a.m. to 8:45 a.m., from 10:15 a.m. to 11 a.m., from 3:15 p.m. to 4 p.m., from 5 p.m. to 5:45 p.m., and from 7:30 p.m. to 8 p.m. At all other times the draw will open from the passage of vessels if at least four (4) hours advance notice is given by calling the number posted at the bridge.
- (b) The draw shall open on signal from September 16 through May 14 if at least twenty-four (24) hours advance notice is given by calling the number posted at the bridge.
- (c) The owners of this bridge shall provide and keep in good legible condition, clearance gauges for each draw with figures not less than twelve (12) inches high designed, installed and maintained according to the provisions of § 118.160 of this chapter.
- 3. Appendix A to part 117 is amended by adding an entry in alphabetical order under the heading "Massachusetts" for Lagoon Pond to read as follows: