



## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

### 33 CFR Part 117

### Docket No. USCG-2022-0854

### RIN 1625-AA09

Drawbridge Operation Regulation; Reynolds Channel, Atlantic Beach, NY

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

---

**SUMMARY:** The Coast Guard is altering the operating schedule that governs the Atlantic Beach Bridge across the Reynolds Channel, mile 0.4, at Atlantic Beach, NY. The bridge owner, Nassau County Bridge Authority, submitted a request on September 22, 2022 to modify the regulation to decrease the amount of openings on signal from October through May. On November 16, 2023 Nassau County Bridge Authority sent an additional request to add a bridge tower call number and remove outdated language. It is expected that this change to the regulations will better serve the needs of the community while continuing to meet the reasonable needs of navigation.

**DATES:** This rule is effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>. Type the docket number (USCG-2022-0854) in the “SEARCH” box and click “SEARCH”. In the Document Type column, select “Supporting & Related Material.”

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or e-mail Ms. Stephanie E. Lopez, First Coast Guard District, Project Officer, telephone

212-514-4335, email Stephanie.E.Lopez@uscg.mil.

## **SUPPLEMENTARY INFORMATION:**

### **I. Table of Abbreviations**

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FR	<b>Federal Register</b>
OMB	Office of Management and Budget
NPRM	Notice of Proposed Rulemaking
SNPRM	Supplemental Notice of Proposed Rulemaking
§	Section
U.S.C.	United States Code

### **II. Background Information and Regulatory History**

On August 25, 2023, the Coast Guard published a Notice of Proposed Rulemaking (NPRM) with a request for comments, entitled “Drawbridge Operation Regulation; Reynolds Channel, Atlantic Beach, NY” in the Federal Register (88 FR 58176), to seek your comments on whether the Coast Guard should consider modifying the current operating schedule to the Atlantic Beach Bridge. No comments were received.

On February 21, 2024, the Coast Guard published a Supplemental Notice of Proposed Rulemaking (SNPRM) with a request for comments, under the same title as the NPRM in the Federal Register (89 FR 13013), There we stated why we issued the SNPRM, and invited comments on our proposed regulatory action related to this regulatory change. During the comment period that ended March 22, 2024, we received three comments and those comments are addressed in Section IV of this Final Rule.

### **III. Legal Authority and Need for Rule**

The Coast Guard is issuing this rule under authority 33 U.S.C. 499. The Atlantic Beach Bridge at mile 0.4, across Reynolds Channel, Atlantic Beach, NY, has a vertical clearance of 25 feet at mean high water and a horizontal clearance of 125 feet. Waterway users include recreational and commercial vessels, including fishing vessels.

The existing drawbridge operating regulations are listed at 33 CFR 117.799(e). Under

the current regulation, the bridge shall open on signal from October 1 through May 14. Nassau County is requesting the bridge shall open on signal from 8 a.m. to midnight October 1 through May 14; and from midnight to 8 a.m. year-round the draw shall open on signal if at least eight hours advance notice is given.

The Reynolds Channel is transited by recreational vessels and commercial vessels. In recent years, a significant amount of industrial and commercial business has closed along the waterfront. This change has caused a decrease in the number of bridge opening requests from midnight to 8 a.m.

Nassau County Bridge Authority held two public meetings on August 18, 2022 and August 25, 2022. No one from the public attended.

#### **IV. Discussion of Comments, Changes, and the Final Rule**

Coast Guard provided a comment period of 30 days and three comments were received. All three comments were positive and in favor of the rule change.

#### **V. Regulatory Analyses**

We developed this rule after considering numerous statutes and Executive Orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive Orders.

##### *A. Regulatory Planning and Review*

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. This rule has not been designated a “significant regulatory action,” under section 3(f) of Executive Order 12866, as amended by Executive Order 14094 (Modernizing Regulatory Review). Accordingly, it has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on the ability of vessels to still transit the bridge given advanced notice.

### *B. Impact on Small Entities*

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. 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 received no comments from the Small Business Administration on this rule. 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.

While some owners or operators of vessels intending to transit the bridge may be small entities, for the reasons stated in section V. A. above, this rule will not have a significant economic impact on any vessel owner or operator.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

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.

### *C. 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).

### *D. Federalism and Indian Tribal Government*

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, 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.

### *E. 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 (adjusted for inflation) 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.

### *F. Environment*

We have analyzed this rule under Department of Homeland Security Management Directive 023-01, Rev.1, associated implementing instructions, and Environmental Planning Policy COMDTINST 5090.1 (series) which guide the Coast Guard in

complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321-4370f). The Coast Guard has determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule promulgates the operating regulations or procedures for drawbridges and is categorically excluded from further review, under paragraph L49, of Chapter 3, Table3-1 of the U.S. Coast Guard Environmental Planning Implementation Procedures.

Neither a Record of Environmental Consideration nor a Memorandum for the Record are required for this rule.

### **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; and DHS Delegation No. 00170.1.

Revision No. 01.3

2. Amend § 117.799 by revising paragraph (e) to read as follows:

§ 117.799 Long Island, New York Inland Waterway from East Rockaway Inlet to Shinnecock Canal

\*\*\*\*\*

(e) The draw of the Atlantic Beach Bridge across Reynolds Channel, mile 0.4, shall operate as follows:

- (1) From October 1 through May 14 the draw shall open on signal from 8 a.m. to midnight.

- (2) From midnight to 8 a.m. year-round, the draw shall open on signal if at least

eight (8) hours of notice is given by calling the Bridge Tower at 516-239-1821.

(3) From May 15 through September 30, the bridge will open on signal except from 4 p.m. to 7 p.m. on weekdays, and from 11 a.m. to 9 p.m. on Saturdays, Sundays, Memorial Day, Independence Day, and Labor Day, when the bridge will open on the hour and half-hour.

\*\*\*\*\*

Dated: April 27, 2024.

J. W. Mauger  
Rear Admiral, U.S. Coast Guard,  
Commander, First Coast Guard District  
[FR Doc. 2024-09922 Filed: 5/6/2024 8:45 am; Publication Date: 5/7/2024]