

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2023–0530]

RIN 1625–AA09

Drawbridge Operation Regulation; Long Creek, Nassau County, NY

AGENCY: Coast Guard, Department of Homeland Security (DHS).

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is temporarily modifying the operating schedule that governs the Loop Parkway Bridge across Long Creek, mile 0.7, Nassau County, NY. The bridge owner, New York State Department of Transportation (NYSDOT), submitted a request to operate the bridge under single leaf openings to perform bridge deck replacement.

DATES: This temporary final rule is effective March 25, 2024, until May 16, 2024.

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–2023–0530) 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 temporary final rule, call or email Ms. Stephanie E. Lopez, First Coast Guard District, Project Officer, telephone 571–608–5676, email Stephanie.E.Lopez@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FR	Federal Register
NPRM	Notice of proposed rulemaking
SNPRM	Supplemental notice of proposed rulemaking
Pub. L.	Public Law
§	Section
U.S.C.	United States Code
NYSDOT	New York State Department of Transportation

II. Background Information and Regulatory History

On September 19, 2023, the Coast Guard issued a general deviation to NYSDOT, allowed the bridge owner, NYSDOT, to deviate from the current operating schedule in 33 CFR 117.799(f) for the Loop Parkway Bridge. This deviation allowed the bridge to operate

under single leaf operations from September 20, 2023, to March 17, 2024, in order to perform bridge deck replacement.

Since the actual scope of the work would take longer than the allowable time limit of the General Deviation, the Coast Guard published a notice of proposed rulemaking on October 3, 2023, entitled “Drawbridge Operation Regulation; Long Creek, Nassau County, NY,” in the *Federal Register* (88 FR 68031). There we stated why we issued the NPRM, and invited comments on our proposed regulatory action related to the rehabilitation of the Loop Parkway Bridge. During the comment period that ended November 2, 2023, we received no comments.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 33 U.S.C. 499. The Loop Parkway Bridge will continue to operate under its regular operating schedule found in 33 CFR 117.799(f). However, this rule will allow the bridge to operate under single leaf openings from March 25, 2024, until May 16, 2024. For vessels that are too large for single leaf openings NYSDOT has identified an alternate route. Vessels that can pass without requesting a bridge opening may do so. NYSDOT has reached phase 2 of the project which requires replacing the bridge deck. This rule will allow the project to progress while minimizing impact on mariners.

IV. Discussion of Comments, Changes and the Temporary Final Rule

The Coast Guard published an NPRM on October 3, 2023, providing a comment period of 30 days and no comments were received.

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 that vessels can still transit the bridge through the single leaf openings and vessels that are too large to make passage through single leaf openings have alternate routes which they can make passage.

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 (Pub. L. 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.

The Coast Guard published an NPRM on October 3, 2023, providing a comment period of 30 days and no comments were received.

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.

The Coast Guard published an NPRM on October 3, 2023, providing a comment period of 30 days and no comments were received.

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, Table 3–1 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. In § 117.799:

■ a. Paragraph (f) is stayed; and

■ b. Paragraph (j) is added.

The addition reads as follows:

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

* * * * *

(j) The draw of the Loop Parkway Bridge across Long Creek, mile 0.7, shall operate on single leaf openings from March 25, 2024, to May 16, 2024. The draw will open for commercial vessels engaged in commerce and shall open Monday thru Friday from 6:20 a.m. to 9:50 a.m. and 3:20 p.m. to 7:20 p.m. on signal at 20 and 50 minutes after the hour, and on signal at all other times. For all other vessels, the draw shall open on Monday through Friday from 6:20 a.m. to 7:20 p.m. on signal at 20 and 50 minutes after the hour, and the draw shall open on Saturday, Sunday, and Federal Holidays from 7:20 a.m. to 8:20 p.m. on signal at 20 and 50 minutes after the hour, and on signal at all other times.

Dated: February 13, 2024.

J.W. Mauger,

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

[Docket No. USCG–2023–0532]

RIN 1625–AA09

Drawbridge Operation Regulation; Sloop Channel, Nassau County, NY

AGENCY: Coast Guard, Department of Homeland Security (DHS).

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is temporarily modifying the operating schedule that governs the Meadowbrook State Parkway Bridge, mile 12.8, across Sloop Channel, Nassau County, NY. The bridge owner, New York State Department of Transportation (NYSDOT), submitted a request to operate the bridge under single leaf openings to perform bridge deck replacement.

DATES: This temporary final rule is effective March 25, 2024, until May 16, 2024.

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–2023–0532) in the “SEARCH” box and click “SEARCH”. In the Document Type column, select “Supporting & Related Material.”

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SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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Pub. L. Public Law
§ Section
U.S.C. United States Code
NYSDOT New York State Department of Transportation

II. Background Information and Regulatory History

On September 19, 2023, the Coast Guard issued a general deviation to NYSDOT allowing the bridge owner, NYSDOT, to deviate from the current operating schedule in 33 CFR 117.799(h) for the Meadowbrook State