



DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG-2016-0776]

RIN 1625-AA09

Drawbridge Operation Regulation; Ashley River, Charleston, SC

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is modifying the operating schedule that governs the US17 Highway Bridges (Ashley River Bridges), across the Ashley River, miles 2.4 and 2.5, in Charleston, SC. This rule requires a bridge tender to be present during daytime hours only from 9 a.m. to 4 p.m. daily for on signal openings. All other times a 12 hour advanced notification is required. This modification provides relief to vehicle traffic congestion with minimal effect on 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 <http://www.regulations.gov>. Type USCG-2016-0776 in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rulemaking.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail LT Justin Heck, Coast Guard Sector Charleston, SC, Waterways Management Division;

telephone 843-740-3184, e-mail justin.c.heck@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FR	Federal Register
OMB	Office of Management and Budget
NPRM	Notice of Proposed Rulemaking (Advance, Supplemental)
§	Section
U.S.C.	United States Code
SCDOT	South Carolina Department of Transportation
SC	South Carolina

II. Background Information and Regulatory History

On April 24, 2017, we published a notice of proposed rulemaking (NPRM) entitled, “Drawbridge Operation Regulation; Ashley River, Charleston, SC” in the Federal Register (82 FR 18879). We received no comments on this rule.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 33 U.S.C. 499.

The US17 Highway Bridges (Ashley River Bridges), across the Ashley River, miles 2.4 and 2.5, at Charleston, SC are parallel double leaf bascule bridges. Each bridge has a vertical clearance of 24 feet in the closed position at mean high water and a horizontal clearance of 90 feet. Presently, in accordance with 33 CFR 117.915(a), the US17 Highway Bridges (Ashley River Bridges) are required to open on signal; except that, from 7 a.m. to 9 a.m. Monday through Friday and 4 p.m. to 7 p.m. daily, the draws need to be opened only if at least 12 hours notice is given. The draws of either bridge shall open as soon as possible for the passage of vessels in an emergency involving danger to life or property.

On May 19, 2015, the HDR/ICA contractor for South Carolina Department of

Transportation requested that the Coast Guard review the current bridge operating schedule to determine whether a change could be made to improve vehicle traffic flow in the area. The bridge owner, South Carolina Department of Transportation (SCDOT) was consulted on this issue and concurred with the recommendations which would change the current 12 hour advance notice for a bridge opening to include night time hours.

IV. Discussion of Comments, Changes and the Final Rule

The Coast Guard provided 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, and we discuss First Amendment rights of protesters.

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. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. This rule has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, it has not been reviewed by the Office of Management and Budget (OMB) and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on: (1) the ability for vessels to transit the bridge given advanced notice, (2) vessels that can transit under the bridge without an opening may do so at anytime, and (3) the draws of either bridge shall open as soon as possible for the passage of vessels in an emergency.

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 zero 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, above.

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.

No comments were received; therefore, no changes were made to the regulatory text.

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 and Commandant Instruction M16475.ID, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321-4370f), and have made a determination that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule simply promulgates the operating regulations or procedures for drawbridges. This action is categorically excluded from further review, under figure 2-1, paragraph (32)(e), of the Instruction. A Record of Environmental Consideration and a Memorandum for the Record are not required for this rule.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the “For Further Information Contact” section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

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 Department of Homeland Security
Delegation No. 0170.1.

2. Amend § 117.915 by revising paragraph (a) to read as follows:

§ 117.915 Ashley River.

(a) The draws of the US17 Highway Bridges (Ashley River Bridges), mile 2.4 and 2.5 at Charleston, SC shall open on signal; except that, from 4 p.m. to 9 a.m. daily, the draws shall open only if at least 12 hours notice is given. The draws of either bridge shall open as soon as possible for the passage of vessels in an emergency involving danger to life or property.

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Dated: December 11, 2017.

Peter J. Brown,
Rear Admiral, U.S. Coast Guard,
Commander, Seventh Coast Guard District.

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