



9110-04-P

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

### 33 CFR Part 117

[Docket No. USCG-2017-0713]

RIN 1625-AA09

### Drawbridge Operation Regulation; Atlantic Intracoastal Waterway, Wappoo Creek, Charleston, SC

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

---

**SUMMARY:** The Coast Guard proposes to modify the operating schedule that governs the SR 171/700 (Wappoo Cut) Bridge across Wappoo Creek (AICW), mile 470.8, at Charleston, SC.

This proposed action would eliminate the seasonal operating schedules and adjust the daily schedule due to an increase in vehicle traffic throughout the year. This proposed action is intended to reduce vehicular traffic congestion and provide a more consistent operating schedule for the bridge.

**DATES:** Comments and related material must reach the Coast Guard on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** You may submit comments identified by docket number USCG-2017-0713 using Federal eRulemaking Portal at <http://www.regulations.gov>.

See the “Public Participation and Request for Comments” portion of the SUPPLEMENTARY INFORMATION section below for instructions on submitting comments.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this proposed 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	<b>Federal Register</b>
OMB	Office of Management and Budget
NPRM	Notice of Proposed Rulemaking
§	Section
U.S.C.	United States Code
AICW	Atlantic Intracoastal Waterway
SC	South Carolina
SR	State Route

**II. Background, Purpose and Legal Basis**

The existing regulation for the SR 171/700 (Wappoo Cut) Bridge across Wappoo Creek (AICW), mile 470.8, at Charleston, SC is contained in 33 CFR 117.911(d), which is entitled, “Atlantic Intracoastal Waterway, Little River to Savannah River.” This regulation provides three different seasonal operating schedules throughout the year.

The SR 171/700 (Wappoo Cut) Bridge across Wappoo Creek (AICW), mile 470.8 at Charleston, SC, provides a vertical clearance of 33 feet in the closed position at MHW and a horizontal clearance of 100 feet between fenders.

On November 16, 2016, the Mayor of the City of Charleston requested that the Coast Guard modify the current regulation by changing the times the bridge is allowed to remain in the closed position, remove the seasonal operating schedules, and allow for a once an hour opening during the day. The South Carolina Department of Transportation, the bridge owner, has no

objection to the requested changes.

The requested modification should simplify the current operating schedule, allow for a more consistent and efficient operation of the bridge and provide relief to vehicle traffic congestion while meeting the reasonable needs of navigation.

### **III. Discussion of Proposed Rule**

The Coast Guard proposes to modify the regulation contained in 33 CFR 117.911(d). Under this proposed regulation, the draw of the SR171/700 (Wappoo Cut) Bridge would open on signal, except from 6 a.m. to 9:29 a.m. and 3:31 p.m. to 7 p.m., the bridge need not open. Additionally, the draw would open once an hour on the half hour, between the hours of 9:30 a.m. and 3:30 p.m.

This proposed change would still allow vessels that can transit under the bridge, without an opening, to do so at any time while taking into account the reasonable needs of other modes of transportation. Emergency vessels and tugs with tows can still request openings at any time.

### **IV. Regulatory Analyses**

We developed this proposed rule after considering numerous statutes and Executive Orders related to rulemaking. Below we summarize our analyses based on these statutes and Executive Orders and we discuss First Amendment rights of protestors.

#### **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 NPRM has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, the NPRM 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 the ability of vessels to still transit the bridge once an hour during the day, except during the allowed closure times. Vessels in distress, public vessels of the United States and tugs with tows would be allowed to pass at any time.

**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 certifies under 5 U.S.C. 605(b) that this proposed rule would 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 IV.A above, this proposed rule would not have a significant economic impact on any vessel owner or operator.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see ADDRESSES) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

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 proposed 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. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

C. Collection of Information

This proposed rule would call 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 proposed 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 proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would 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. If you believe this proposed rule has implications for federalism or Indian tribes, please contact the person listed in the FOR FURTHER INFORMATION CONTACT section above.

#### 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 proposed rule will not result in such an expenditure, we do discuss the effects of this proposed rule elsewhere in this preamble.

#### F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023-01, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969(42 U.S.C. 4321-4370f), and have 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 involves promulgating the operating regulations for a drawbridge. It is categorically excluded from further review under paragraph L49 of Appendix A, Table 1 of DHS Instruction Manual 023-01-001-01, Rev. 01.

We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed 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.

### **V. Public Participation and Request for Comments**

We view public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

We encourage you to submit comments through the Federal eRulemaking Portal at <http://www.regulations.gov>. If your material cannot be submitted using <http://www.regulations.gov>, contact the person in the FOR FURTHER INFORMATION CONTACT section of this document for alternate instructions.

We accept anonymous comments. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you have provided. For more about privacy and the docket, visit <http://www.regulations.gov/privacynotice>.

Documents mentioned in this NPRM as being available in this docket and all public comments, will be in our online docket at <http://www.regulations.gov> and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted or a final rule is published.

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

Bridges.

For the reasons discussed 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; 33 CFR 1.05-1; and Department of Homeland Security

Delegation No. 0170.1.

2. Revise §117.911(d) to read as follows:

§ 117.911 Atlantic Intracoastal Waterway, Little River to Savannah River.

\* \* \* \* \*

(d) *SR 171/700 (Wappoo Cut) Bridge across Wappoo Creek, mile 470.8, at Charleston, SC.* The draw shall open on signal; except that the draw need not open from 6 a.m. to 9:29 a.m. and 3:31 p.m. to 7 p.m., Monday through Friday, except Federal holidays. Between 9:30 a.m. and 3:30 p.m., Monday through Friday, except Federal holidays, the draw need open only once an hour on the half hour.

\* \* \* \* \*

Dated: December 11, 2017.

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

[FR Doc. 2017-26999 Filed: 12/14/2017 8:45 am; Publication Date: 12/15/2017]