between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of Information and Regulatory Affairs has not designated this as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.,* specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023–01, and Commandant Instruction M16475.lD 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 preliminary 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 because it simply promulgates the operating regulations or procedures for drawbridges. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

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; Department of Homeland Security Delegation No. 0170.1.

2. Amend § 117.871 to read as follows:

§ 117.871 Coos Bay.

The draw of the Port of Coos Bay railroad bridge, mile 9.0 at North Bend, shall be maintained in the fully open position, except for the crossing of trains or maintenance.

Dated: October 15, 2009.

G.T. Blore,

Rear Admiral, U.S. Coast Guard Commander, Thirteenth Coast Guard District.

[FR Doc. E9–27354 Filed 11–13–09; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2009–0838]

RIN 1625–AA09

Drawbridge Operation Regulation; Snohomish River, Steamboat Slough, and Ebey Slough; Everett and Marysville, WA

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to modify the drawbridge operation regulation for the Burlington Northern Santa Fe Railroad drawbridge across Ebey Slough, mile 1.5, in Marysville, Washington so that two-hour notice would be required to open the bridge from 3:30 p.m. to 7 a.m. every day. The bridge will be opened on signal at all other times. The modification is necessary to allow Burlington Northern Santa Fe Railroad to reduce staffing of the bridge during periods requiring infrequent openings. The Coast Guard is also proposing additional minor changes to the drawbridge operation regulations covering the Snohomish River system to delete obsolete requirements.

DATES: Comments and related material must reach the Coast Guard on or before January 15, 2010.

ADDRESSES: You may submit comments identified by the Coast Guard docket number USCG–2009–0838 using any one of the following methods:

(1) *Federal eRulemaking Portal: http://www.regulations.gov.*

(2) *Fax:* 202–493–2251.

(3) *Mail:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001.

(4) *Hand delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

To avoid duplication, please use only one of these methods. 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 Austin Pratt, Chief, Bridge Section, Waterways Management Branch, 13th Coast Guard District, telephone 206–220–7282, e-mail *william.a.pratt@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted, without change, to *http://www.regulations.gov* and will include any personal information you have provided.

Submitting Comments

If you submit a comment, please include the docket number for this rulemaking USCG–2009–0838, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online (*http://www.regulations.gov*), or by fax, mail or hand delivery, but please use only one of these means. If submit a comment online via *http://www.regulations.gov*, it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver or

mail your comment, it will be considered received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an e-mail address, or a phone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov*, click on the ''submit a comment'' box, which will then become highlighted in blue. In the ''Document Type'' drop down menu select ''Proposed Rules'' and insert ''USCG–2009–0838'' in the ''Keyword'' box. Click ''Search'' then click on the balloon shape in the ''Actions'' column.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the rule based on them.

Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov*, click on the ''read comments'' box, which will then become highlighted in blue. In the ''Keyword'' box insert ''USCG–2009–0838'' and click ''Search''. Click the ''Open Docket Folder'' in the ''Actions'' column. You may also visit either the Docket Management Facility in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

Privacy Act

Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, *etc.*). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

Public Meeting

We do not now plan to hold a public meeting, but you may submit a request using one of the four methods under **ADDRESSES**. Please explain why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register.**

Background and Purpose

The proposed rule would modify the drawbridge operation regulation for the Burlington Northern Santa Fe Railroad drawbridge across Ebey Slough, mile 1.5, in Marysville, Washington so that two-hour notice would be required to open the bridge from 3:30 p.m. to 7 a.m. every day. The bridge will be opened on signal at all other times. The railroad company requested this change to reduce staffing of the drawbridge during periods requiring infrequent openings.

The operating regulations currently in effect for the Ebey Slough Railroad Bridge are found at 33 CFR part 117, subpart A, the general operating regulations for drawbridges. The regulations require the bridge to open promptly on signal at any time, which requires constant presence of a drawtender.

The modification would make the regulations consistent with most of the other drawbridges in the lower Snohomish River system between Marysville and Everett, Washington. In 2008 the draw opened 128 times for vessels. For the first five months of 2009 the draw opened 95 times for vessels. These records indicate that the bridge opens on average less than once a day. Most vessels that require the swing span to open are recreational vessels and occasionally tugboats.

The Coast Guard is also proposing additional minor changes to the drawbridge operation regulations covering the Snohomish River system to delete obsolete requirements.

Discussion of Proposed Rule

The Coast Guard proposes to amend 33 CFR 117.1059 by adding a drawbridge operation regulation for the Burlington Northern Santa Fe Railroad drawbridge across Ebey Slough, mile 1.5, in Marysville, Washington to require two-hour notice to open the bridge from 3:30 p.m. to 7 a.m. every day. The bridge will be opened on signal at all other times.

The Coast Guard also proposes to change the regulations found in 33 CFR 117.1059 to delete obsolete requirements for the bridges over the Snohomish River, Steamboat Slough, and Ebey Slough. The changes include the deletion of special sound signals for the inability of the draw to open. The standard danger signal of five short blasts in rapid succession would be used instead as codified in the general regulations for drawbridge operations at Part 117.5 of 33 Code of Federal Regulations.

The requirement to toll a bell in fog when draws are open for vessel passage would also be deleted along with the requirement for constant attendance of drawtenders during freshets at those bridges that are otherwise required to have drawtenders present only to operate upon notice to open.

The foregoing are not general requirements at drawbridges. They were established decades ago when commercial navigation, especially log towing, was more frequent on the braided stream system of the lower Snohomish. Improvements in navigation, such as radio and radar, have greatly reduced the need for these measures. The constant attendance of drawtenders during freshets is not needed because there is less traffic in these waterways than when the original regulations were established.

Regulatory Analyses

We developed this proposed rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

Regulatory Planning and Review

This proposed rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. The Coast Guard has made this finding based on the fact that the changes proposed will have little, if any, impact on the ability of vessels to transit the areas affected.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. 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. This proposed rule would affect the following entities, some of which

might be small entities: The owners and operators of vessels needing to transit under the bridges affected. The rule will not have a significant economic impact on a substantial number of small entities, however, because the changes proposed will have little, if any, impact on the ability of vessels to transit under those bridges.

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.

Assistance for Small Entities

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 proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. 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 Austin Pratt, Chief, Bridge Section, Waterways Management Branch, 13th Coast Guard District, at (206) 220–7282. 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.

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).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this proposed rule under that Order and have determined that it does not have implications for federalism.

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 or more in any one year. Though this proposed rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This proposed rule would not affect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

Indian Tribal Governments

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.

Energy Effects

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of Information and Regulatory Affairs has not designated this as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.,* specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023–01, and Commandant Instruction M16475.lD 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 preliminary 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 because it simply promulgates the operating regulations or procedures for drawbridges. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

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; Department of Homeland Security Delegation No. 0170.1.

2. Revise § 117.1059 to read as follows:

§ 117.1059 Drawbridge Operation Regulation; Snohomish River, Steamboat Slough, and Ebey Slough; Everett and Marysville, WA.

(a) The draws of the twin, SR529 highway bridges across the Snohomish River, mile 3.6, at Everett shall open on signal if at least one-hour notice is given. Monday through Friday, notice for opening shall be given to the drawtender at the SR529 highway bridge across Ebey Slough, at

Marysville, and at all other times to the drawtender at the twin SR529 highway bridges at Everett.

(b) The draw of the SR2 highway bridge across the Snohomish River, mile 6.9, at Everett, shall open on signal if at least four hours notice is given.

(c) The draw of the Burlington Northern Santa Fe railroad bridge across the Snohomish River, mile 15.5, at Snohomish need not open for the passage of vessels.

(d) The draw of the Burlington Northern Santa Fe railroad bridge across Steamboat Slough, mile 1.0, near Marysville, shall open on signal if at least four hours notice is given.

(e) The draws of the twin, SR529 highway bridges across Steamboat Slough, miles 1.1 and 1.2, near Marysville shall open on signal if at least four hours notice is given. Monday through Friday, notice for openings shall be given to the drawtender at the SR529 highway bridge across Ebey Slough, at Marysville, and at all other times to the drawtender at the twin SR529 highway bridges at Everett.

(f) The draw of the Burlington Northern Santa Fe railroad bridge across Ebey Slough, mile 1.5, at Marysville shall open on signal if two hours notice is given from 3:30 p.m. to 7 a.m. and promptly on signal at all other times.

(g) The draws of the SR529 highway bridge across Ebey Slough, mile 1.6, at Marysville, shall open on signal if at least one hour notice is given. Monday through Friday, notice for openings shall be given to the drawtender at this bridge and at all other times to the drawtender at the SR529 highway bridges across the Snohomish River at Everett.

Dated: October 15, 2009.

G.T. Blore,

Rear Admiral, U.S. Coast Guard Commander, Thirteenth Coast Guard District.

[FR Doc. E9–27355 Filed 11–13–09; 8:45 am]

BILLING CODE 9110–04–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 09–2270; MB Docket No. 09–189; RM–11564]

Radio Broadcasting Services, Kahuku, HI

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Audio Division seeks comments on a petition filed by Kona Coast Radio, LLC, proposing the allotment of FM Channel 296C3 at Kahuku, Hawaii. The reference coordinates for Channel 296C3 at Kahuku are 21–40–48 NL and 157–57–03 WL.

DATES: Comments must be filed on or before December 14, 2009, and reply comments on or before December 29, 2009.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW, Washington, DC 20554. In addition to filing comments with the FCC interested parties should serve the petitioner, as follows: Victor A. Michael, Jr., 87 Jasper Lake Road, Loveland, CO 80537 (Principal of Petitioner).

FOR FURTHER INFORMATION CONTACT: Andrew J. Rhodes, Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MB Docket No. 09–189, adopted October 21, 2009, and released October 23, 2009. The full text of this Commission document is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY–A257), 445 12th Street, SW., Washington, DC.

The complete text of this decision may also be purchased from the Commission's copy contractor, Best Copy and Printing, Inc., 445 12th Street, SW, Room CY–B402, Washington, DC 20554, 800–378–3160 or via the company's website, http://www.bcpiweb.com.

This document does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, it does not contain any proposed information collection burden ''for small business concerns with fewer than 25 employees,'' pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4).

Provisions of the Regulatory Flexibility Act of 180 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all ex parte contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible ex parte contact. For information regarding proper filing procedures for comments, see 47 CFR 1.4125 and 1.420.

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

PART 73 – RADIO BRAODCAST SERVICES

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Hawaii, is amended by adding Kahuku, Channel 296C3.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. E9–27368 Filed 11–13–09; 8:45 am]

BILLING CODE 6712–01–S