

DC 20503 [Attention: Desk Officer for the Federal Energy Regulatory Commission], e-mail: [oir\\_submission@omb.eop.gov](mailto:oir_submission@omb.eop.gov).

#### IV. Environmental Analysis

56. The Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any action that may have a significant adverse effect on the human environment.<sup>45</sup> The Commission has categorically excluded certain actions from this requirement as not having a significant effect on the human environment. Included in the exclusion are rules that are clarifying, corrective, or procedural or that do not substantially change the effect of the regulations being amended.<sup>46</sup> The actions proposed herein fall within this categorical exclusion in the Commission's regulations.

#### V. Regulatory Flexibility Act Certification

57. The Regulatory Flexibility Act of 1980 (RFA)<sup>47</sup> generally requires a description and analysis of final rules that will have significant economic impact on a substantial number of small entities. The RFA mandates consideration of regulatory alternatives that accomplish the stated objectives of a proposed rule and that minimize any significant economic impact on a substantial number of small entities. The Small Business Administration's Office of Size Standards develops the numerical definition of a small business. (See 13 CFR 121.201.) For electric utilities, a firm is small if, including its affiliates, it is primarily engaged in the transmission, generation and/or distribution of electric energy for sale and its total electric output for the preceding twelve months did not exceed four million megawatt hours.

58. In drafting a rule an agency is required to: (1) Assess the effect that its regulation will have on small entities; (2) analyze effective alternatives that may minimize a regulation's impact; and (3) make the analyses available for public comment.<sup>48</sup> In its NOPR, the agency must either include an initial regulatory flexibility analysis (initial RFA)<sup>49</sup> or certify that the proposed rule will not have a "significant impact on

a substantial number of small entities."<sup>50</sup>

59. As noted above, the Commission has determined that the regional Reliability Standard will not impose any new burden on balancing authorities within the Western Interconnection, as the practice has been used in the region since 2003. Further, the regional reliability standard would apply to about 35 balancing areas in the Western Interconnection. The Commission estimates that of these balancing areas, approximately two to four qualify as small entities, because the total electric output of each of these entities for the preceding twelve months did not exceed four million megawatt hours. Thus, few small entities are impacted by the proposed rule. Therefore, the Commission certifies, for informational purposes only, that the regional Reliability Standard will not have a significant impact on a substantial number of small entities.

#### VI. Comment Procedures

60. The Commission invites interested persons to submit comments on the matters and issues proposed in this notice to be adopted, including any related matters or alternative proposals that commenters may wish to discuss. Comments are due January 12, 2009. Comments must refer to Docket No. RM08-12-000, and must include the commenter's name, the organization they represent, if applicable, and their address in their comments.

61. The Commission encourages comments to be filed electronically via the eFiling link on the Commission's Web site at <http://www.ferc.gov>. The Commission accepts most standard word processing formats. Documents created electronically using word processing software should be filed in native applications or print-to-PDF format and not in a scanned format. Commenters filing electronically do not need to make a paper filing.

62. Commenters that are not able to file comments electronically must send an original and 14 copies of their comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street, NE., Washington, DC 20426.

63. All comments will be placed in the Commission's public files and may be viewed, printed, or downloaded remotely as described in the Document Availability section below. Commenters on this proposal are not required to serve copies of their comments on other commenters.

<sup>50</sup> 5 U.S.C. 605(b).

#### VII. Document Availability

64. In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the Internet through FERC's Home Page (<http://www.ferc.gov>) and in FERC's Public Reference Room during normal business hours (8:30 a.m. to 5 p.m. Eastern time) at 888 First Street, NE., Room 2A, Washington, DC 20426.

65. From FERC's Home Page on the Internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

66. User assistance is available for eLibrary and the FERC's website during normal business hours from FERC Online Support at 202-502-6652 (toll free at 1-866-208-3676) or email at [ferconlinesupport@ferc.gov](mailto:ferconlinesupport@ferc.gov), or the Public Reference Room at (202) 502-8371, TTY (202) 502-8659. E-mail the Public Reference Room at [public.referenceroom@ferc.gov](mailto:public.referenceroom@ferc.gov).

#### List of Subjects in 18 CFR Part 40

Electric power, Electric utilities, Reporting and recordkeeping requirements.

By direction of the Commission.

**Kimberly D. Bose,**

Secretary.

[FR Doc. E8-28088 Filed 11-25-08; 8:45 am]

BILLING CODE 6717-01-P

#### DEPARTMENT OF HOMELAND SECURITY

##### Coast Guard

##### 33 CFR Part 117

[Docket No. USCG-2008-1095]

RIN 1625-AA09

#### Drawbridge Operation Regulation; Chehalis, Hoquiam, and Wishkah Rivers, Aberdeen and Hoquiam, WA, Schedule Change

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to modify the drawbridge operation regulation for the Washington State drawbridges across the Chehalis, Hoquiam, and Wishkah Rivers at Grays

<sup>45</sup> Order No. 486, *Regulations Implementing the National Environmental Policy Act of 1969*, 52 FR 47,897 (Dec. 17, 1987), FERC Stats. & Regs., Regulations Preambles 1986-1990 ¶ 30,783 (1987).

<sup>46</sup> 18 CFR 380.4(a)(2)(ii).

<sup>47</sup> 5 U.S.C. 601-612.

<sup>48</sup> 5 U.S.C. 601-604.

<sup>49</sup> 5 U.S.C. 603(a).

Harbor, Washington. The change is necessary to reduce staffing requirements during the night when openings are infrequent. The rule will do so by modifying the number of hours of advance notice required for draw openings and establishing the telephone as the only means of contact for openings at night.

**DATES:** Comments and related material must reach the Coast Guard on or before January 26, 2009.

**ADDRESSES:** You may submit comments identified by the Coast Guard docket number USCG-2008-1095 to the Docket Management Facility at the U.S. Department of Transportation. To avoid duplication, please use only one of the following methods:

(1) *Online:* [http://](http://www.regulations.gov)

[www.regulations.gov](http://www.regulations.gov).

(2) *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.

(3) *Hand delivery:* Room W12-140 on the Ground Floor of the West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202-366-9329.

(4) *Fax:* 202-493-2251.

**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. 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. We have an agreement with the Department of Transportation (DOT) to use the Docket Management Facility. Please see DOT's "Privacy Act" paragraph below.

#### **Submitting Comments**

If you submit a comment, please include the docket number for this rulemaking USCG-2008-1095, indicate the specific section of this document to which each comment applies, and give

the reason for each comment. 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. You may submit your comments and material by electronic means, mail, fax, or delivery to the Docket Management Facility at the address under **ADDRESSES**; but please submit your comments and material by only one means. If you submit them by mail or 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. We may change this proposed rule in view of 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> at any time. Enter the docket number for this rulemaking (USCG-2008-1095) in the search box, and click "Go>>." 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 or the 13th Coast Guard District Waterways Management Branch at 915 Second Avenue, Seattle, WA 98174-1067 between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

#### **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 the Department of Transportation's Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477), or you may visit <http://DocketsInfo.dot.gov>.

#### **Public Meeting**

We do not now plan to hold a public meeting, but you may submit a request for one to the Docket Management Facility at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that a public meeting 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 will enable the Washington State Department of Transportation, the owner of the drawbridges across the Chehalis, Hoquiam, and Wishkah Rivers at Grays Harbor, Washington, to reduce the staffing of the Chehalis Bridge, which currently maintains a radio watch during the night hours when advance notice is required for openings of the draws of all of those bridges.

One-hour notice is currently required for openings of the Chehalis River Bridge from one hour after sunset to one hour before sunrise and for all openings of the Simpson Avenue Bridge, Hoquiam River mile 0.5, the Riverside Avenue Bridge, Hoquiam River mile 0.9, the Heron Street Bridge, Wishkah River mile 0.2, and the Wishkah Street Bridge, Wishkah River, mile 0.4.

The reduction in staffing is appropriate because the draws of those bridges rarely have to be opened during the period affected. In fact, during the entire year of 2007 only 50 openings were requested for the bridges between 9 p.m. and 5 a.m., which equates to an average of less than one opening per week during those hours. Furthermore, most of the requests were made by telephone.

#### **Discussion of Proposed Rule**

The proposed rule will amend 33 CFR 117.1031 by changing the hours when advanced notification is required to open the draw of the Chehalis Bridge from one hour after sunset to one hour before sunrise. This would be changed to 9 p.m. to 5 a.m. The proposed rule will also limit the means of advance notification to telephone alone and change the sound signal to request an opening of the draw of the bridge from 5 a.m. to 9 p.m. from two short blasts followed by one prolonged blast to the general signal of one prolonged blast followed by one short blast.

The proposed rule will amend 33 CFR 117.1047 and 117.1065 so that the means of notification to request an opening of the draw of the Simpson Avenue Bridge, Riverside Avenue Bridge, Heron Street Bridge, or Wishkah Street Bridge will be limited to telephone alone.

These changes are necessary to allow the Washington State Department of Transportation to reduce the staffing of the Chehalis Bridge as noted above.

#### **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.

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation is unnecessary. We reached this conclusion because the draws of the bridges rarely have to be opened during the period affected, the draws will still be opened in a reasonable amount of time, and most vessel operators already use the telephone to request openings of the draws.

### 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 or operators of vessels needing to transit the bridges during the period affected. This action will not have a significant economic impact on a substantial number of small entities, however, because the bridges rarely have to be opened during the period affected, the draws will still be opened in a reasonable amount of time, and most vessel operators already use the telephone to request openings of the draws.

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 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 preliminary determination that this action is not likely to 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 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 § 117.1031 to read as follows:

#### § 117.1031 Chehalis River.

The draw of the SR 101 highway bridge, mile 0.1, at Aberdeen shall open on signal from 5 a.m. to 9 p.m., except that from 7:15 a.m. to 8:15 a.m. and 4:15 p.m. to 5:15 p.m., Monday through Friday, except federal holidays, the draw need not open for vessels of less than 5000 gross tons. At all other times, the draw shall open on signal if at least one hour notice is given by telephone to the Washington State Department of Transportation. The opening signal is one prolonged blast followed by one short blast.

3. In § 117.1047 revise paragraphs (c) and (d) to read as follows:

#### § 117.1047 Hoquiam River.

\* \* \* \* \*

(c) The draw of the Simpson Avenue Bridge, mile 0.5, at Hoquiam, shall open on signal if at least one hour notice is given by telephone to the Washington State Department of Transportation. The opening signal is two prolonged blasts followed by one short blast.

(d) The draw of the Riverside Avenue Bridge, mile 0.9, at Hoquiam, shall open on signal if at least one hour notice is given by telephone to the Washington State Department of Transportation. The opening signal is two prolonged blasts followed by two short blasts.

4. In § 117.1065 revise paragraph (c) to read as follows:

#### § 117.1065 Wishkah River.

\* \* \* \* \*

(c) The draw of the Heron Street Bridge, mile 0.2 and the Wishkah Street Bridge, mile 0.4, at Aberdeen, shall open on signal if at least one hour notice is given by telephone to the Washington State Department of Transportation. The opening signal for both bridges is one prolonged blast followed by two short blasts.

Dated: November 12, 2008.

**J.P. Currier,**

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

[FR Doc. E8–28135 Filed 11–25–08; 8:45 am]

**BILLING CODE 4910–15–P**

## DEPARTMENT OF EDUCATION

### 34 CFR Part 5

**RIN 1880–AA84**

**[Docket ID ED–2008–OM–0011]**

### Availability of Information to the Public

**AGENCY:** Office of Management, Department of Education.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Secretary proposes to amend the regulations governing the Department's compliance with the Freedom of Information Act, as amended (FOIA or the Act). The proposed regulations are intended to update the Department's current regulations to reflect the changes in the FOIA over recent years.

**DATES:** We must receive your comments on or before December 26, 2008. Comments received after this date will not be considered.

**ADDRESSES:** Submit your comments through the Federal eRulemaking Portal or via postal mail, commercial delivery, or hand delivery. We will not accept comments by fax or by e-mail. Please submit your comments only one time, in order to ensure that we do not receive duplicate copies. In addition, please include the Docket ID at the top of your comments.

The Department scans all first-class and priority mail using an irradiation process, which can result in lengthy delays in mail delivery. Please keep this in mind when submitting your comments and consider using the Federal eRulemaking Portal, commercial delivery services, or hand delivery.

• *Federal eRulemaking Portal:* Go to <http://www.regulations.gov> to submit

your comments electronically. Information on using [Regulations.gov](http://Regulations.gov), including instructions for accessing agency documents, submitting comments, and viewing the docket, is available on the site under "How To Use This Site."

• *Postal Mail, Commercial Delivery, or Hand Delivery:* If you mail or deliver your comments about these proposed regulations, address them to Delores J. Barber, U.S. Department of Education, 400 Maryland Avenue, SW., Washington, DC 20202–4536.

*Privacy Note:* The Department's policy for comments received from members of the public (including those comments submitted by mail, commercial delivery, or hand delivery) is to make these submissions available for public viewing in their entirety on the Federal eRulemaking Portal at <http://www.regulations.gov>. Therefore, commenters should be careful to include, in their comments, only information that they wish to make publicly available on the Internet.

**FOR FURTHER INFORMATION CONTACT:** Delores J. Barber, U.S. Department of Education, 400 Maryland Avenue, SW., Washington, DC 20202–4536. Telephone: (202) 401–8365 or via Internet: [EDFOIManager@ed.gov](mailto:EDFOIManager@ed.gov).

If you use a telecommunications device for the deaf (TDD), you may call the Federal Relay Service (FRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed under **FOR FURTHER INFORMATION CONTACT**.

### SUPPLEMENTARY INFORMATION:

#### Invitation to Comment

We invite you to submit comments regarding these proposed regulations. To ensure that your comments have maximum effect in developing the final regulations, we urge you to identify clearly the specific section or sections of the proposed regulations that each of your comments addresses and to arrange your comments in the same order as the proposed regulations.

We invite you to assist us in complying with the specific requirements of Executive Order 12866 and its overall requirement of reducing regulatory burden that might result from these proposed regulations. Please let us know of any further opportunities we should take to reduce potential costs or increase potential benefits while preserving the effective and efficient administration of the FOIA program.