Vessel	Number	Obstruction angle relative ship's headings
* * *	* * *	*
USS CHARLESTON	LCS 18	72° thru 74°. 286° thru 288°.
* * *	* * *	*

* * * * * 27. * * *

Vessel	Number	Obstruction angle relative ship heading
* * *	* * *	*
USS CHARLESTON	LCS 18	47° thru 59°. 301° thru 313°.

TABLE FIVE

Vessel	Number	Masthead lights not over all other lights and obstructions. annex I, sec. 2(f)	Forward masthead light not in forward quarter of ship. annex I, sec. 3(a)	After mast-head light less than ½ ship's length aft of forward masthead light. annex I, sec. 3(a)	Percentage horizontal separation attained
* *	*	*	*	*	*
USS CHARLESTON	LCS 18		X	X	15.2
* *	*	*	*	*	*

Approved: May 24, 2018.

Christopher J. Spain,

Deputy Assistant Judge Advocate General (Admiralty and Maritime Law), Acting.

Dated: May 31, 2018.

E.K. Baldini,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 2018–12136 Filed 6–5–18; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 155

[Docket No. USCG–2011–0576]

RIN 1625–AB75

Higher Volume Port Area–State of Washington

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is redefining the boundaries of the existing higher volume port area in the Strait of Juan de Fuca and Puget Sound, in Washington. This rulemaking is required to make the Code of Federal Regulations consistent with statute, and is related to the Coast Guard's maritime stewardship (environmental protection) mission.

DATES: This final rule is effective July 6, 2018.

ADDRESSES: Documents mentioned in this preamble as being available in the docket are part of docket USCG–2011–0576, which is available at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Mr. Christopher Friese, CG–MER–1, Coast Guard; telephone 202–372–1227, email *Christopher.R.Friese@uscg.mil.*

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I. Abbreviations

BLS Bureau of Labor Statistics
CGAA 2010 Coast Guard Authorization Act of 2010 (Pub. L. 111–281, 124 Stat. 2905, Oct. 15, 2010)
CGAA 2015 Coast Guard Authorization Act of 2015 (Pub. L. 114–120, 130 Stat. 27, Feb. 8, 2016)
CFR Code of Federal Regulations
COMDTINST Commandant Instruction
CRF Capital recovery factor
FR Federal Register
GSA General Services Administration
HVPA Higher volume port area
MISLE Marine Information for Safety and Law Enforcement
NAICS North American Industry Classification System
NPRM Notice of proposed rulemaking
NSFCC National Strike Force Coordination Center
OMB Office of Management and Budget

OSRO Oil spill removal organization
Pub. L. Public Law
SBA Small Business Administration
Stat. Statute
U.S.C. United States Code
VRP Vessel response plan

II. Basis and Purpose

The purpose of this rule is to align the list of higher volume port areas (HVPAs) in 33 CFR 155.1020 with statutory changes made to the State of Washington's higher volume port area, the Washington HVPA. Section 316 of the Coast Guard Authorization Act of 2015 (CGAA 2015) expanded the Washington HVPA.[1] The Washington HVPA had included the Strait of Juan de Fuca seaward of Port Angeles, but section 316 expanded it immediately to an area seaward of Cape Flattery, which is where the Strait of Juan de Fuca joins the Pacific Ocean. Regulations in 33 CFR 155.1020 still reflect the prior, Port Angeles location. Therefore, this rulemaking updates the Code of Federal Regulations (CFR) to match the statutory requirement already in force.

This rule is issued in accordance with section 316 of the CGAA 2015. The legal basis to update the CFR is Title 33 of the United States Code (U.S.C.) section 1231 and 1321(j), which require the Secretary of the department in which the Coast Guard is operating to issue regulations necessary for implementing the Ports and Waterways Safety Act, and require the President to issue regulations mandating response plans and other measures to protect against oil and hazardous substance spills. The President's authority under 33 U.S.C. 1321(j) is delegated to the Secretary by Executive Order 12777, and the Secretary's authority is delegated to the Coast Guard by DHS Delegation No. 0170.1(II)(70), (73), and (80).

III. Regulatory History

On October 15, 2010, the Coast Guard Authorization Act of 2010 (CGAA 2010) directed the Coast Guard to initiate a rulemaking to modify the definition of ''higher volume port area'' in 33 CFR 155.1020, to expand the Washington HVPA past Cape Flattery.[2] On December 7, 2011, the Coast Guard published a notification [3] announcing our intent to comply with the mandate in section 710 of the CGAA 2010. On May 22, 2015, the Coast Guard published a notice of proposed rulemaking (NPRM) [4] to revise the boundaries of the existing HVPA in the Strait of Juan de Fuca and Puget Sound. The NPRM had a 90-day comment period that closed on August 20, 2015. No public meeting was requested, and none was held.

After the close of the NPRM comment period, the CGAA 2015 expanded the HVPA immediately without requiring rulemaking before the change took effect. The Coast Guard applies the requirements of the expanded HVPA of the CGAA 2015 and has done so since the effective date of the Act. Although rulemaking is not required to implement the statute, a conforming change to the CFR is still necessary to ensure the regulations align with the statute. In this final rule, the Coast Guard is making conforming changes and responding to public comments received on the proposed rule. In Section V of this preamble, we discuss the comments that we received and how we addressed them.

IV. Background

Oil or hazardous material pollution prevention regulations for U.S. and foreign vessels operating in U.S. waters, appear in Coast Guard regulations at 33 CFR part 155. Those regulations require a vessel response plan (VRP) describing measures that the vessel owner or operator has taken or will take to mitigate or respond to an oil spill from the vessel. The VRP must demonstrate the vessel's ability, following a spill, to secure response resources within given time periods. These measures typically include the services of nearby response resources under a contract between the vessel's owner or operator and an oil spill removal organization (OSRO) that owns the response resources. The regulations provide for three different timeframes within which a combination of required response resources must arrive on the scene, which are described as Tiers 1, 2, and 3.

In 33 CFR part 155, subparts D (petroleum oil as cargo), F (animal fat or vegetable oil as cargo), G (non-petroleum oil as cargo), and J (petroleum oil as fuel or secondary cargo) all share the same definition of ''higher volume port area.'' Required response times are significantly reduced in HVPAs. For example, Tier 1 response times for an oil tanker within an HVPA are half of that required for the same vessel operating in open ocean. As defined in 33 CFR 155.1020, the Strait of Juan de Fuca and Puget Sound, WA, constitute one of the 14 HVPAs designated around the country.

Since 1996, 33 CFR 155.1020 has defined the seaward boundary of the Washington HVPA as an arc 50 nautical miles seaward of the entrance to Port Angeles, WA. Port Angeles is approximately 62 nautical miles inland from the Pacific Ocean entrance to the Strait of Juan de Fuca, at Cape Flattery, WA, and therefore the Washington HVPA, as defined in 33 CFR 155.1020, did not include any Pacific Ocean waters. Section 710 of the CGAA 2010 required the Coast Guard to initiate a rulemaking to relocate the HVPA's arc so that it extended seaward from Cape Flattery, not Port Angeles. This added 50 nautical miles of Pacific Ocean water and an additional 12 nautical miles in the western portion of the Strait of Juan de Fuca.[5]

V. Discussion of Comments on the Notice of Proposed Rulemaking

We received comments on our NPRM from five sources: An environmental group, two state environmental agencies, an Indian tribal council, and an individual resident of the region. These public comments could not anticipate the 2015 legislation that was enacted after the close of the comment period in August 2015, and which overwrote the 2010 legislation that prompted the Coast Guard to issue the NPRM. However, the Coast Guard addresses all the public comments here in order to improve clarity and foster better relationships with stakeholders.

Legislative intent. The tribal council explained its role in developing the 2010 legislation mandating this rulemaking, and said the purpose of the legislation was to ''enhance oil spill response capacity in the Strait of Juan de Fuca, commensurate with the history of oil spills in this region, the sensitivity of the area's natural resources and the risk for future spills from increasing tank and non-tank vessel traffic.'' The council asserted that the NPRM did not reflect this intent in the proposed regulatory text.

Response: We acknowledge the council's role in developing the 2010 legislation. However, the text of section 710 is unambiguously limited to the expansion of the HVPA. Section 316 of CGAA 2015 expanded the Washington HVPA without the need for the Coast Guard to conduct a rulemaking. Neither Act gave the Coast Guard discretion to choose a different size or location for the Washington HVPA, or provided other direction regarding this HVPA.

Adequacy of response resources. The environmental group, one of the state environmental agencies, the tribal council, and the local resident all expressed concern that expansion of the

[1] Public Law 114–120, 130 Stat. 27 (2016).

[2] Public Law 111–281, section 710, 124 Stat. 2986 (2010).

[3] 76 FR 76299.

[4] 80 FR 29582.

[5] Waters discussed in this preamble are shown on National Oceanic and Atmospheric Administration chart 18460 (Cape Flattery, WA) and chart 18465 (Port Angeles, WA).

HVPA would reduce the ability of OSROs to respond adequately to oil or other hazardous substance spills throughout the HVPA. The local resident and the state environmental agency said we did not provide sufficient details on how we will implement the expanded HVPA. The same group asked us to coordinate with governmental agencies and regional and tribal groups to collectively determine how best to balance response assets in the HVPA. The environmental group and the resident expressed concern over the potential impact of anticipated increases in the number of vessels carrying those substances in the HVPA.

Response: Title 33 CFR part 155 does not allow the Coast Guard to direct OSROs where equipment must be staged, or require OSROs to purchase any additional equipment. The Coast Guard requires that OSROs demonstrate their ability to respond adequately to a spill within an HVPA's response timelines. Thus, there is no provision to coordinate with governmental agencies and regional and tribal groups to collectively determine how best to balance response assets in the HVPA.

The Coast Guard National Strike Force Coordination Center (NSFCC) verifies OSRO capability through Preparedness Assessment Visits and response time calculations. The same method is used in classifying all OSROs. Two OSROs are currently classified for coverage in the HVPA. Vessel owners or operators need only reference the classified OSRO in their VRP. If an owner or operator chooses to use a non-classified OSRO, then they must list all the equipment and describe how they meet the requirements in appendix B to 33 CFR part 155. All VRPs receive the same detailed review for response adequacy to ensure the vessel's readiness for response in the geographic area it is operating.

We acknowledge the concerns of commenters with regard to reduced response capabilities throughout the HVPA. This rulemaking in no way reduces or changes any response requirements that currently exist. Implementation of the revised HVPA does not change the requirement of vessel owners and operators to identify classified OSROs or identify their own equipment sufficient to meet part 155 appendix B requirements. This is required in order for the vessel to receive an approved VRP necessary for operating in the HVPA.

We also acknowledge concerns about increased vessel transits and, it is implied, a higher likelihood of spills. VRPs are for response planning purposes. Consistent with the National Planning Criteria, they are evaluated using the worst-case discharge from a single vessel.

Pre-NPRM tribal consultation. The tribal council ''strongly disagree[s]'' with our analysis of Executive Order 13175 (Indian Tribal Governments) requirements, which concluded that, for this rulemaking, tribal consultation is not required by the Executive Order. The council says we should have consulted with it because of our shared trust responsibility for the commenter's treaty protected area.

Response: The Coast Guard enjoys a close working relationship with many tribal governments, including the council represented by the commenter. The Coast Guard welcomes ongoing communications and informal consultation, as well as suggestions for improving communications with tribes. The consultation described in section 5(b) of Executive Order 13175 is triggered by a regulation that has tribal implications and imposes substantial direct compliance costs on Indian tribal governments. Section 5(b) Executive Order 13175 also only requires consultation when the regulation being developed ''is not required by statute.'' In this case, section 710 of CGAA 2010 required that the Coast Guard promulgate a regulation to expand the Washington HVPA. As discussed above, however, after the close of the NPRM comment period, section 316 of CGAA 2015 expanded the Washington HVPA by statutory mandate. Therefore, the Coast Guard maintains that the consultation described in Executive Order 13175 does not apply. As noted, however, we do not believe that the absence of Executive Order 13175 consultation prevents the Coast Guard from receiving and incorporating input from tribal governments. In the 5 years between the 2010 legislation and the 2015 publication of the NPRM, the Coast Guard met or spoke with tribal representatives about the Washington HVPA expansion. We appreciated the input and look forward to continued collaboration with the tribal representatives.

Future tribal consultation. The tribal council asked us to enter into government-to-government consultation after the rule is adopted, and to develop a protocol for consultation and coordination going forward. The council also suggested that we consult with the State of Washington to ''establish a harmonized view about how industry and OSROs will be expected to comply with the HVPA shift.''

Response: The Coast Guard invites communication and dialogue with tribal councils in order to maintain a positive working relationship. The Coast Guard's Thirteenth District, in particular, values its longstanding and ongoing relationship with the Makah Tribal Council. The Thirteenth District meets with tribes, and will continue to meet with tribes, to discuss a variety of issues. The involvement of local units like the Thirteenth District is essential for ensuring the Coast Guard's proper understanding of stakeholder input, and the Thirteenth District is best positioned to work with the council, through their longstanding and ongoing relationship as memorialized in their 2013 Memorandum of Agreement, on any implementation arrangements that are appropriate for discussion with the public. Although the process described in Executive Order 13175 is not the appropriate mechanism for consultation and coordination after the rule becomes final, the Coast Guard is committed to addressing concerns raised by our regulations and their implementation.

As described above, this rule makes no changes to the requirements for planholders or for classifying OSROs, so we do not anticipate a shift in implementation process. Through existing practices, the NSFCC confirms that classified OSROs meet their regulatory responsibilities. Owners or operators using non-classified OSROs must describe in their VRP how they meet appendix B requirements. Although we do not see a specific need for formal consultation with the State of Washington, the Thirteenth Coast Guard District maintains open lines of communication with the State. The Coast Guard will continue to work with its Federal, State, local, and tribal partners to ensure response readiness following publication of this final rule.

Additional resources and Neah Bay restaging. One of the state environmental agencies said that the expanded HVPA ''should result in the acquisition and staging of additional equipment that is capable of open water recovery and storage in Neah Bay.'' The State agency also said that, in approving VRPs and evaluating OSROs identified by those VRPs, we should consider whether they reflect the restaging of response assets in Neah Bay. The tribal council said our rule should ensure that ''additional equipment is purchased and staged in a geographic location to promptly respond to a spill in the western reaches of the expanded HVPA, without adversely impacting responses'' elsewhere in the HVPA, and said Neah Bay is the ''logical and appropriate'' staging area for additional response equipment, which should be rated for an open-ocean environment.

Response: While Neah Bay may be a logical and appropriate location for the staging of response equipment, other locations may also be logical and appropriate. The Coast Guard does not direct OSROs to where equipment must be staged, or require OSROs to purchase any additional equipment. The Coast Guard requires that OSROs demonstrate their ability to respond adequately to a spill within an HVPA's response timelines.

Benefits. One of the state environmental agencies and the tribal council asked what basis we had for stating in the NPRM [6] that of 283 spills of oil or other hazardous substances in the affected area between 1995 and 2013, we could identify no spill response that would have benefitted from the HVPA's expansion. The council cited three oil spills that adversely affected the tribe including the *General Meigs,* the *Nestucca,* and the *Tenyo Maru.* The agency and the council both noted that we did not ask them for information that might have changed that conclusion. The council expressed concern over ''the limited historical oil spill data'' used in our analysis, and ''formally request[ed]'' that we conduct ''a more rigorous analysis of historical oil spills'' and give the commenter the ''opportunity to review the Coast Guard's methodology regarding'' what effect HVPA expansion might have had on the response to previous spills.

Response: Although Congress expanded the HVPA after these comments were submitted, making our spill analysis redundant, it may be helpful to explain the context for our regulatory analyses. The statement referred to by these commenters appeared in the ''regulatory analyses'' for the NPRM.[7] As explained in the NPRM, based on information from Coast Guard personnel who have experience in casualty case investigations and analysis, we found none of the 283 cases or spills that would have benefited from the HVPA expansion. As for the three spills cited by the council, we cannot conclude that the expanded HVPA would have mitigated the damage caused by those incidents. The 33 CFR part 155 regulations do not apply to a warship or naval auxiliary vessel such as the troopship *General Meigs*.[8] The *Nestucca* and *Tenyo Maru* incidents did not occur within the existing or expanded bounds of the HVPA. We were therefore unable to use these incidents in our benefit analysis for this rulemaking.

VI. Discussion of the Rule

This rule is substantively unchanged from what we proposed in the NPRM. It expands the boundaries of the Washington HVPA in the CFR to make those boundaries consistent with section 316 of the CGAA 2015. The old definition of ''higher volume port area'' in 33 CFR 155.1020 includes any water area within 50 nautical miles seaward of the entrance to the Strait of Juan De Fuca at Port Angeles, WA to and including Cape Flattery, WA. In order to align the regulations with section 316 of the CGAA 2015, we are amending that definition by striking ''Port Angeles, WA'' and inserting ''Cape Flattery, WA'' in its place.

Port Angeles lies about 62 nautical miles east of the entrance to the Strait of Juan de Fuca. By moving the arc so that it centers on Cape Flattery, which lies at the entrance to the Strait, the redefined Washington HVPA will cover an additional 50 nautical miles of Pacific Ocean water, while continuing to cover all the waters now included within the current HVPA. The larger Washington HVPA may affect the time and resources needed to respond to an oil spill from a vessel because it is harder and more time-consuming to transit rough Pacific Ocean waters than it is to transit the sheltered waters of the Strait and the Sound. We discuss these possibilities in more detail in the Regulatory Analyses section that follows.

This rule also makes two editorial changes in 33 CFR 155.1020. First, we correct the spelling of ''Strait of Juan De Fuca'' to ''Strait of Juan de Fuca.'' Second, we add a note to paragraph (13) of the definition of ''higher volume port area'' to highlight that the western boundary of the Washington HVPA in 33 CFR part 155 differs from that in 33 CFR part 154 for facilities transferring oil or hazardous materials in bulk. The difference stems from section 316 of the CGAA 2015 (Pub. L. 114–120) and the statutory language that specifically addresses the definition in 33 CFR part 155. The statutory expansion in the CGAA 2015 is not written to address 33 CFR part 154, and therefore 33 CFR subchapter O will contain two differing definitions of ''higher volume port area'' for the Straits of Juan de Fuca.

VII. Regulatory Analyses

We developed this final rule after considering numerous statutes and Executive orders related to this rulemaking. Below we summarize our analyses based on these statutes or Executive orders.

A. Regulatory Planning and Review

Executive Orders 12866 (Regulatory Planning and Review) and 13563 (Improving Regulation and Regulatory Review) 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 (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. Executive Order 13771 (Reducing Regulation and Controlling Regulatory Costs), directs agencies to reduce regulation and control regulatory costs and provides that ''for every one new regulation issued, at least two prior regulations be identified for elimination, and that the cost of planned regulations be prudently managed and controlled through a budgeting process.''

The Office of Management and Budget (OMB) has not designated this rule a significant regulatory action under section 3(f) of Executive Order 12866. Accordingly, OMB has not reviewed it. As this rule is not a significant regulatory action, this rule is exempt from the requirements of Executive Order 13771. See OMB's Memorandum ''Guidance Implementing Executive Order 13771, Titled 'Reducing Regulation and Controlling Regulatory Costs''' (April 5, 2017). A regulatory analysis follows.

We received no public comments on the estimated costs of the proposed rule, nor did we receive any additional information or data that alters our assessment of the proposed rule. However, we received two public comments on the benefit analysis presented in the proposed rule regarding the same topic. We presented our full response to these two public comments in section V of this preamble. Because no casualty case mentioned in one of the comments would have benefited from the expanded HVPA, we also determined that our assessment of the benefits of the proposed rule remains unchanged. Therefore, we adopt the preliminary regulatory analysis for the proposed rule as final. A summary of that analysis follows.

This final rule is needed to conform Coast Guard regulations to the statutory changes made by section 316 of CGAA 2015. Currently, the CFR says the Washington HVPA boundary is

[6] NPRM, 80 FR 29582 at 29586, col. 3 (May 22, 2015).

[7] NPRM, 80 FR 29582 at 29586–29587 (May 22, 2015).

[8] 33 CFR 155.100(b)(1).

measured from Port Angeles in a 50 nautical mile seaward arc westward to the Pacific Ocean. This final rule will amend the definition of the term ''higher volume port area'' to match the relocated point at which the seaward arc is measured from Port Angeles to Cape Flattery, WA, an approximately 62 nautical mile westward shift. As a result, the Washington HVPA will cover an additional 50 nautical miles of open ocean and an additional 12 nautical miles in the western portion of the Strait of Juan de Fuca. A VRP must list the OSRO provider that the vessel owner or operator has contracted with and stipulate the vessel's ability to secure response resources within specific regulatory timeframes (Tiers 1, 2, and 3) in the event of an oil spill. This final rule will codify the changes delineated in the CGAA 2015 and it will not require changes to VRPs.

Affected Population

Part 155 of 33 CFR directly applies to and regulates vessel owners and operators. The final rule has the potential to impact vessel response planholders covering vessels that transit the Washington HVPA and OSROs that provide response resources in the event of an oil spill. Based on the Coast Guard's review of VRPs, two OSROs may be impacted by the final rule. One OSRO has about 500 response resource contracts and the other OSRO has about 650 contracts with planholders that own vessels that call on the expanded Washington HVPA. For the OSRO that has 500 contracts, about 3 percent or 15 of those contracts are with U.S. planholders; for the OSRO that has 650 contracts, about 2 percent or 13 of those contracts are with U.S. planholders.

Costs

Vessel owners and operators will not need to revise or modify a current VRP to take into account the expansion of the HVPA. Current VRPs already specify one or both of the OSROs that provide response resources to vessel owners and operators in the affected waters. Vessel owners and operators must only list the NSFCC-classified OSRO by name and include the contact information for each OSRO in the VRP; no other information or details regarding the geographic location of response equipment are required in the VRP.

In addition to identifying the OSRO in the VRP, vessel owners and operators must ensure the availability of response resources from the OSRO through a contract or other approved means. Depending on how the contract language is formulated, a contract may need to be modified to reflect the change in the HVPA geographical definition. For example, one OSRO provided information which stated that contracts will need to be modified slightly to incorporate the geographic change of the expanded HVPA, while the other OSRO provided information which stated that no changes or modifications to existing contracts are necessary on the part of either OSRO or the planholders. For the purpose of this analysis, we estimate costs to modify a contract for the planholders of the OSRO that stated that changes are necessary. This OSRO has about 500 planholders with written contractual agreements to secure response resource services in the event of an oil spill; of this amount, only about 3 percent or 15, are with U.S. planholders. Based on information we obtained from industry in formulating the Nontank Vessel Response Plan final rule (78 FR 60100), it will take a general and operations manager approximately 2 hours of planholder time to amend the contract and send the contract to the OSRO for approval. If a plan preparer amends the contract on behalf of the planholder, we estimate it will take the same amount of time. We found that 36 percent of planholders perform this work internally and 64 percent hire a plan preparer to perform this work on their behalf. The amendment of a contract is a one-time cost; we estimate little or no submission cost for planholders because nearly 100 percent of contracts are submitted by email to the responsible OSRO.

Accounting for planholders who perform the work internally and using the Bureau of Labor Statistics (BLS) May 2016 National Industry-Specific Occupational Employment and Wage Estimates for General and Operations Manager (Occupation Code 11–1021), we obtain a mean hourly wage rate of $73.98. We then use BLS' 2016 Employer Cost for Employee Compensation databases to calculate and apply a load factor of 1.52 to obtain a loaded hourly labor rate of about $112.45 for this occupation.[9] For plan preparers, we obtained publicly available fully loaded billing rates for senior regulatory consultants and program managers from three environmental service companies using the General Services Administration's (GSA) Federal Acquisition eLibrary for service contracts.[10] We took the average of these three rates to obtain a fully loaded hourly wage rate of $145.11[we used three labor categories: Senior Regulatory Consultant with a wage rate of $184.22 for contract number GS–10F–0263U (page number 16), Program Manager with a wage rate of $115.86 for contract number GS–10F–0074T (page number 4), and Senior Project Manager with a wage rate of $135.25 for contract number GS–10F–0335R (page number 32)]. Of about 500 planholders who have contracts with this OSRO, only about 15 are U.S. planholders. Of the 15 U.S. planholders, about 36 percent will amend the contract internally. We estimate the one-time cost to these planholders is about $1,214 ($112.45 × 2 hours × 500 planholders × 0.03 × 0.36, rounded). For the remaining 64 percent of U.S. planholders who have plan preparers amend the contracts on their behalf, we estimate the one-time cost is about $2,786 ($145.11 × 2 hours × 500 planholders × 0.03 × 0.64, rounded); the total combined estimated one-time cost to U.S. planholders to amend the contracts is about $4,001, rounded and undiscounted. We estimate the average one-time or initial cost for each U.S. planholder to amend a contract is about $267 ($4,001/15 U.S. planholders). We estimate the 10-year discounted cost is about $3,739 using a 7 percent discount rate and the annualized cost is about $532.

The remaining 485 planholders are foreign. For 36 percent of them who will amend the contracts internally, we

[9] Information can be viewed at *https://www.bls.gov/oes/2016/may/naics3_483000.htm.* Once on this page, scroll down to review the wage rate for 11–1021, General and Operations Manager with a mean hourly wage of $73.98. A loaded labor rate is what a company pays per hour to employ a person, not the hourly wage. The loaded labor rate includes the cost of benefits (health insurance, vacation, etc.). The load factor for wages is calculated by dividing total compensation by wages and salaries. For this analysis, we used BLS' Employer Cost for Employee Compensation/Transportation and Materials Moving Occupations, Private Industry report (Series IDs, CMU2010000520000D and CMU2020000520000D for all workers using the multi-screen data search). Using 2016 Q4 (Quarter 4) data, we divide the total compensation amount of $28.15 by the wage and salary amount of $18.53 to get the load factor of 1.52. See the following website, *http://www.bls.gov/ncs/ect/data.htm.* Once on this page, scroll down to ''Pay and Benefits'' and click the multi-screen data search button to access the database, ''Employer Cost for Employee Compensation.'' We used the mean hourly wage rate of $73.98 and multiplied by 1.52 to obtain a loaded hourly wage rate of about $112.45.

[10] GSA Contract GS–10F–0263U accessed 05/24/2017, *https://www.gsaadvantage.gov/ref_text/GS10F0263U/0ME78D.2QP6TJ_GS-10F-0263U_GSAADVANTAGEYR6.PDF*; GSA Contract GS–10F–0074T accessed 05/24/2017, *https://www.gsaelibrary.gsa.gov/ElibMain/contractorInfo.do?contractNumber=GS-10F-0074T&contractorName=ENVIRONMENTAL+MANAGEMENT+SERVICES+INC&executeQuery=YES* (once at the GSA *e*Library web page, the reader must use the hyperlink labeled ''Contractor T&Cs/Pricelist'' to obtain the wage rate used in this analysis), and *https://www.gsaadvantage.gov/ref_text/GS10F0335R/0OMBPD.3723M6_GS-10F-0335R_ENVCOSTMGMTTANDC071315.PDF*; accessed 05/24/2017.

estimate the one-time cost is about $39,268 ($112.45 × 2 hours × 485 planholders × 0.36, rounded). For the remaining 64 percent of foreign planholders who have a plan preparer amend the contracts on their behalf, we estimate the one-time cost is about $90,084 ($145.11 × 2 hours × 485 planholders × 0.64, rounded); combined the total estimated one-time cost to foreign planholders to amend the contracts is about $129,352, rounded, or about $267 per planholder ($129,352/485 foreign planholders).

The final category of potential costs relates to the OSROs' abilities to meet the specified response times in the new geographic area of the HVPA. Based on information provided to the Coast Guard, one OSRO stated that additional response equipment will not be required and capital expenditures will not be necessary as a result of the expanded HVPA under current Coast Guard OSRO classification guidelines. Based on data from the other OSRO, we estimate that total initial capital costs could be as high as $5.5 million for temporary storage equipment and warehousing with annual capital recurring costs of approximately $250,000 for equipment maintenance, and up to $1 million for barge recertification (included in the $5.5 million estimate), warehousing, and other necessary resource equipment. However, we lack independent methods to verify these estimates. Moreover, the actual costs the OSRO may incur depend considerably on how they choose to comply with our regulations, which give OSROs substantial flexibility with respect to pre-positioning response resources.

To the extent one OSRO will incur additional costs due to this final rule (such as increased capitalization costs), we expect that these costs are generally passed onto their VRP planholders equally, although the OSRO that provided this information conceded that this was speculative at this point due to the uncertainty of expenditures that may be needed as described below. Using the highest value of capital costs provided to us of $5.5 million, we use the capital recovery cost factor to determine the amount needed annually to recover this payout since we assume the OSRO will finance the expenditures and attempt to recapture them equally over the life of the equipment. The capital recovery factor (CRF), or ratio as it is often referred to, is the ratio of a constant annuity to the present value of the annuity over a given period of time using an acceptable discount rate, as in this case, 7 percent. The ratio also includes the general life expectancy of the investment and can be simply described as the ''share of the net cost that must be recovered each year to 'repay the cost of the fixed input at the end of its useful life.' '' [11] If we use a standard life expectancy of 20 years, we calculate the net amount that must be recovered by the OSRO annually is about $519,161, undiscounted (The capital recovery factor is written as:

$$CRF = \frac{\mathrm{i}(1+i)^n}{(1+i)^n - 1};$$

where i is the discount rate and n is the number of years or the life expectancy of the investment).[12] If we assume this cost is distributed equally over the 650 planholders (U.S. and foreign planholders who own vessels that transit the HVPA) under contract with this OSRO, the amount needed to be recovered by the OSRO to recapture this initial investment is estimated is about $800 (rounded from $798.71) from each planholder annually, most likely in the form of higher retainer fees. However, only about 2 percent, or 13 of the 650 planholders are U.S. planholders. Therefore, for the 13 U.S. planholders, we estimate the total capital cost of this final rule is about $10,400 (650 planholders × 0.02 × $800) annually, undiscounted, in addition to annual maintenance costs of about $385 per planholder ($250,000/650 planholders), undiscounted, in years 2 through 10 of the analysis period. We estimate the total 10-year discounted cost to the 13 U.S. planholders is about $75,390 using a 7 percent discount rate (the 10-year discounted cost is estimated is about $91,624 using a 3 percent discount rate) and the annualized cost is about $10,741.

For all 28 U.S. planholders, we estimate the total initial-year cost is about $14,401 ($4,001 + $10,400), undiscounted. We estimate the total annual recurring cost is about $10,785 ($10,400 + $385), undiscounted (see Table 1 for further details).

It follows that the remaining 637 planholders are foreign. Again, if we assume this OSRO passes along its capital cost in the form of higher retainer fees to foreign planholders, we estimate the total capital cost of this final rule to foreign planholders is about $509,600 (637 × $800) annually, undiscounted, in addition to annual maintenance costs of about $245,000 (637 × $385), undiscounted, in years 2 through 10 of the analysis period. We estimate the total 10-year discounted cost to foreign planholders is about $3.6 million using a 7 percent discount rate (the 10-year discounted cost is estimated is about $4.3 million using a 3 percent discount rate). As stated earlier, we neither have knowledge of the OSROs billing structure nor how costs are distributed among planholders, although in our discussion with one OSRO, we learned that the composition of a planholder's vessel fleet affects the amount of the retainer fee because vessels such as nontank ships require different response resources as opposed to towing vessels, for example.

Table 1 summarizes the total estimated cost of the final rule to 28 U.S. planholders over a 10-year period of analysis.

TABLE 1—SUMMARY OF ESTIMATED COSTS OF THE FINAL RULE TO U.S. PLANHOLDERS

[7 Percent discount rate, 10-year period of analysis, 2017 dollars]

Year	Update contracts for 15 U.S. planholders		OSRO equipment and other capital costs for 13 U.S. planholders		Total costs	
	Undiscounted	Discounted	Undiscounted	Discounted	Undiscounted	Discounted
1	$4,001	$3,739	$10,400	$9,720	$14,401	$13,459
2	0	0	10,785	9,420	10,785	9,420
3	0	0	10,785	8,804	10,785	8,804
4	0	0	10,785	8,228	10,785	8,228

[11] See *https://web.stanford.edu/group/FRI/indonesia/courses/manuals/pam/pam-book/Output/chap9.html.*

[12] We calculate the value of the numerator to be about 0.27 and the value of the denominator to be about 2.87, rounded. The CRF is then calculated to be about 0.0944. Multiplying by the initial investment of $5.5 million, we obtain an annualized recovery amount of about $519,161 rounded, or the annualized amount the OSRO must recover to repay for its initial investment.

TABLE 1—SUMMARY OF ESTIMATED COSTS OF THE FINAL RULE TO U.S. PLANHOLDERS—Continued

[7 Percent discount rate, 10-year period of analysis, 2017 dollars]

Year	Update contracts for 15 U.S. planholders		OSRO equipment and other capital costs for 13 U.S. planholders		Total costs	
	Undiscounted	Discounted	Undiscounted	Discounted	Undiscounted	Discounted
5	0	0	10,785	7,690	10,785	7,690
6	0	0	10,785	7,187	10,785	7,187
7	0	0	10,785	6,716	10,785	6,716
8	0	0	10,785	6,277	10,785	6,277
9	0	0	10,785	5,866	10,785	5,866
10	0	0	10,785	5,483	10,785	5,483
Total		3,739		75,390		79,129
Annualized		532		10,734		11,266

Totals may not sum due to independent rounding.

As Table 1 shows, for 15 U.S. planholders who may need to revise their contracts, we estimate the 10-year discounted cost of the final rule is about $3,739 at a 7 percent discount rate (using a 3 percent discount rate, we estimate the 10-year discounted cost is about $3,884). We estimate the annualized cost is about $532 for these 15 planholders.

For the OSRO that may incur capital costs as a result of this final rule and pass these costs along to its 13 U.S. planholders, we estimate the 10-year discounted cost is about $75,390 at a 7 percent discount rate (using a 3 percent discount rate, we estimate the 10-year discounted cost is about $91,624). We estimate the annualized cost is about $10,734 at a 7 percent discount rate for these 13 planholders.

We estimate the total present discounted cost of the final rule to all 28 U.S. planholders about $79,129 at a 7 percent discount rate (using a 3 percent discount rate, is we estimate the total 10-year discounted cost is about $95,509). We estimate the annualized cost is about $11,266 at a 7 percent discount rate.

We do not anticipate that this final rule will impose new costs on the Coast Guard or require the Coast Guard to expend additional resources because we do not expect any changes are required to the VRPs of vessels in the HVPA.

Alternatives

Due to the specific nature of section 710(a) of the CGAA 2010 and section 316 of the CGAA 2015, we are limited in the alternative approaches we can use to comply with Congress' intent. We considered three alternatives (including the preferred alternative) in the development of the final rule: (1) Revise 33 CFR 155.1020 by striking ''Port Angeles, WA'' in the definition of ''higher volume port area'' of that section and inserting ''Cape Flattery, WA''; (2) revise 33 CFR 155.1020 by striking ''50 nautical miles'' in the definition of ''higher volume port area'' and inserting ''110 nautical miles''; and (3) take no action. The Regulatory Analyses section further discusses the analysis of the preferred alternative (*i.e.,* express adoption of the wording from section 710(a)) in comparison with other regulatory approaches considered.

Analysis of Alternatives

We considered three alternatives (including the preferred alternative) in the development of this final rule. The key factors that we evaluated in considering each alternative included: (1) The degree to which the alternative comported with the congressional mandate in section 710 of the CGAA 2010; (2) what benefits, if any, are derived, such as enhancement of personal and environmental safety and security; and (3) cost effectiveness. The alternatives considered are as follows:

Alternative 1: Revise 33 CFR 155.1020 by striking ''Port Angeles, WA'' in the definition of ''higher volume port area'' of that section and inserting ''Cape Flattery, WA.'' Since 1996, 33 CFR 155.1020 has defined the seaward boundary of the Washington HVPA as an arc 50 nautical miles seaward of the entrance to Port Angeles, WA. The change will relocate the arc's center to Cape Flattery, covering approximately 50 additional nautical miles of open ocean.

Alternative 2: Revise 33 CFR 155.1020 by striking ''50 nautical miles'' in the definition of ''higher volume port area'' and inserting ''110 nautical miles.'' This change would affect the other 13 HVPAs throughout the United States because the level of response resources required would cause significantly reduced response times resulting from a 110-mile outward shift of the existing HVPAs from their entrances. A shift of this distance would require the purchasing and positioning of heavier and more expensive equipment such as oceangoing tugs and barges. In addition, OSROs would incur considerable costs of potentially retrofitting existing HVPAs with shoreside docks. Since this would include all HVPAs, the economic impact on the response resource industry, as a whole, would be greater as opposed to a single HVPA. Furthermore, this option would be inconsistent with the existing boundaries of the expanded HVPA in section 710(a) of CGAA 2010 (Pub. L. 111–281, 124 Stat. 2905) as amended by section 316 of the CGAA 2015.

Alternative 3: Take no action. This option was not selected as it would not implement the intent of section 316 of the CGAA 2015, which specifically requires the Coast Guard to implement the modified definition of the term ''higher volume port area'' by striking ''Port Angeles, WA'' and inserting ''Cape Flattery, WA.'' It also precludes the protection intended by Congress for the waters at the entrance to and in the Strait of Juan de Fuca.

We chose Alternative 1, which codifies the regulation directly and specifically implements section 316 of the CGAA 2015 as described earlier. We rejected Alternative 2, because it would result in different HVPA boundaries in regulation and statute and adds burden, both in the Puget Sound region and in the other HVPAs throughout the United States. We rejected Alternative 3, the ''no action'' alternative, because it would not implement section 316.

Benefits

We did not identify any historic cases that could support the development of quantifiable benefits associated with this final rule. Using the Coast Guard's Marine Information for Safety and Law

Enforcement (MISLE) database with casualty cases transferred from MISLE's predecessor, the Marine Safety Management System database, we examined 283 spill cases from 1995 to 2013, beginning with the first spills that appeared in our database for this geographic region. We also examined 378 additional cases from 2014 through 2016. Based on information from Coast Guard personnel who have experience in casualty case investigations and analysis, we found no cases or spills that would have definitively benefitted from the expanded HVPA.

Qualitatively, oil spills are likely to result in a negative impact to the ecosystem and the economy of the surrounding area. These social welfare effects are not accounted for solely by the amount of oil spilled into the water. In many cases, the scope of the impact is contingent on the vulnerability and resiliency of the affected area. Due to the sensitivity or vulnerability of a location, a barrel of spilled oil may not have the same impact in one area as it would in another. Depending on the ecosystem, VRPs could mitigate impacts to habitats that house multiple species. An area with an ecosystem that is damaged as a result of previous environmental incidents or damaged due to the cumulative effects of environmental injuries over time can be expected to have higher benefits from oil spill mitigation.

The primary benefit of this final rule is to ensure that in the event of a spill, adequate response resources are available and can be mobilized within the expanded HVPA. This will ensure a timely response by vessel owners and operators and the OSROs in an effort to reduce the likelihood, and mitigate the impact of an oil spill on the marine environment that might occur in the expanded HVPA.

B. Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this final rule will 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.

Regarding vessel owners and operators, as previously discussed, this final rule will codify the requirements in the CGAA 2015 of an expanded HVPA, and it will not require vessel owners and operators to make changes to VRPs. Therefore, owners and operators of vessels that transit the HVPA will not incur additional VRP modification costs as a result of this final rule. However, as assumed earlier for the purpose of this analysis, if contracts would need to be modified, as stated by one OSRO on the part of the planholders, U.S. planholders will bear some costs of this final rule as shown earlier in the ''Costs'' portion of section VII. A. of this preamble. We estimate that each of the 15 U.S. planholders will incur an average one-time cost of about $267 to amend its contract with the OSRO.

Also, regarding capital costs, it is unclear whether or how these costs impact vessel owners and operators without knowledge of the OSROs' billing structures. Additionally, proprietary information is not available that would allow us to determine the distribution of costs among many vessel owners and operators contracting with each OSRO. Nevertheless, in our earlier analysis, if we assume capital costs are incurred by one of the OSROs and we assume this cost would be passed along equally to U.S. planholders in the form of higher retainer fees, we estimate each of the 13 U.S. planholders will incur an annual cost of about $800 from one particular OSRO in addition to $385 in maintenance costs in years 2 through 10 of the analysis period for a total planholder cost of about $1,185 in years 2 through 10 of the analysis period.

We assume for the purpose of this analysis that the two OSROs that provide response resource capabilities to the HVPA in Puget Sound may incur costs from this final rule and may likely pass along these costs to planholders in the form of higher retainer fees or planholders may incur one-time costs to amend their contracts with one of the OSROs. Using the North American Industry Classification System (NAICS) codes for businesses and the Small Business Administration's (SBA) size standards for small businesses, we determined the size of each OSRO. One OSRO has a primary NAICS code of 541618 with an SBA size standard of $15 million, which is under the subsector group 541 of the NAICS code with the description of ''Professional, Scientific, and Technical Services.'' The other OSRO has a primary NAICS code of 562998 with an SBA size standard of $7.5 million, which is under the subsector group 562 of the NAICS code with the description of ''Waste Management and Remediation Services.'' Based on the information discussed earlier in this section and annual revenue data from publicly available and proprietary sources, Manta and ReferenceUSA, neither OSRO is considered to be small.

There are about 1,400 U.S. planholders that have either a tank, nontank, or combined VRP. Based on the affected population of this final rule relative to the size of the industry as a whole, in this case U.S. VRP owners (planholders), this final rule will potentially affect 28 or about 2 percent of the total population of U.S. planholders in the United States. As described earlier and dependent upon the OSRO considered, we estimate a U.S. planholder may incur an annual cost between $385 and $1,185 in years 2 through 10 of the analysis period (and between $267 and $800 in the initial year because we assume maintenance costs are not incurred in the initial year of the analysis period) as a result of this final rule. Therefore, 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.

C. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996,[13] we want to assist small entities in understanding this final rule so that they can better evaluate its effects on them and participate in the rulemaking. If the final rule will affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please consult Mr. Christopher Friese (see **FOR FURTHER INFORMATION CONTACT**). 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.

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).

D. Collection of Information

This final rule will call for no new collection of information under the Paperwork Reduction Act of 1995.[14]

[13] Public Law 104–121.

[14] 44 U.S.C. 3501–3520.

E. Federalism

A rule has implications for federalism under Executive Order 13132 (Federalism), if it has a substantial direct effect on 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. Our analysis is explained below.

As noted earlier in the preamble, this rule implements section 710 of the CGAA 2010, as amended by section 316 of the CGAA 2015, which specifically directs the Coast Guard to amend 33 CFR 155.1020 by removing ''Port Angeles, WA'' and replacing it with ''Cape Flattery, WA.'' This rule carries out the Congressional mandate by amending the regulations to reflect this required change. Furthermore, this rule does not appear to have a substantial direct effect upon the laws or regulations of the State of Washington. Additionally, nothing in this rule preempts or prohibits state removal activities related to the discharge of oil or hazardous substances under the Federal Water Pollution Control Act.[15] Therefore, this rule is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

F. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 [16] 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. Although this final rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

G. Taking of Private Property

This final rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630 (Governmental Actions and Interference with Constitutionally Protected Property Rights).

H. Civil Justice Reform

This final 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.

I. Protection of Children

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

J. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments), because it will 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. We discuss Executive Order 13175 in more detail in section V of this preamble.

K. Energy Effects

We have analyzed this final 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.

L. Technical Standards

The National Technology Transfer and Advancement Act [17] directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through OMB, with an explanation of why using these standards will 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 final rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

M. Environment

We have analyzed this final rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD (COMDTINST M16475.1D), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969,[18] and have made a determination that this is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. A Record of Environmental Consideration supporting this determination is available in the docket where indicated under the **ADDRESSES** section of this preamble. This rule is categorically excluded under section 6(b) of the ''Appendix to National Environmental Policy Act: Coast Guard Procedures for Categorical Exclusions, Notice of Final Agency Policy.'' [19] This rule involves Congressionally-mandated regulations designed to protect the environment, specifically, regulations implementing the requirements of the Act (redefining and enlarging the boundaries of the existing Washington HVPA in the Strait of Juan de Fuca and Puget Sound).

List of Subjects in 33 CFR Part 155

Alaska, Hazardous substances, Oil pollution, Reporting and recordkeeping requirements.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 155 as follows:

Title 33—Navigation and Navigable Waters

PART 155—OIL OR HAZARDOUS MATERIAL POLLUTION PREVENTION REGULATIONS FOR VESSELS

■ 1. The authority citation for part 155 is revised to read as follows:

Authority: 3 U.S.C. 301 through 303; 33 U.S.C. 1225, 1231, 1321(j), 1903(b), 2735; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; Department of Homeland Security Delegation No. 0170.1. Section 155.1020 also issued under section 316 of Pub. L. 114–120. Section 155.480 also issued under section 4110(b) of Pub. L. 101–380.

■ 2. In § 155.1020, paragraph (13) of the definition of ''Higher volume port area'':
■ a. Remove the words ''Strait of Juan De Fuca at Port Angeles'' and add in their place the words ''Strait of Juan de Fuca at Cape Flattery''.
■ b. Add a note to read as follows:

§ 155.1020 Definitions.

* * * * *

[15] Section 311, codified at 33 U.S.C. 1321(o).

[16] 2 U.S.C. 1531–1538.

[17] 15 U.S.C. 272 note.

[18] 42 U.S.C. 4321–4370f.

[19] 67 FR 48244 (July 23, 2002).

Higher volume port area * * *
(13) * * *

Note 1 to paragraph (13) of this definition: The western boundary of the Strait of Juan de Fuca higher volume port area in this part differs from that in § 154.1020 of this chapter. The difference stems from section 316(b) of the Coast Guard Authorization Act of 2015 (Pub. L. 114–120), which expands only the definition in this part.

* * * * *

Dated: May 31, 2018.

Dana S. Tulis,

Director of Incident Management and Preparedness Policy.

[FR Doc. 2018–12081 Filed 6–5–18; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2017–0739; FRL–9978–98–Region 3]

Approval and Promulgation of Air Quality Implementation Plans; PA; Emissions Statement Requirement for the 2008 Ozone Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a state implementation plan (SIP) revision submitted by the Commonwealth of Pennsylvania. This SIP revision fulfills Pennsylvania's emissions statement requirement for the 2008 ozone national ambient air quality standard (NAAQS). EPA is approving these revisions in accordance with the requirements of the Clean Air Act (CAA).

DATES: This final rule is effective on July 6, 2018.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA–R03–OAR–2017–0739. All documents in the docket are listed on the *http://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *e.g.,* confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through *http://www.regulations.gov,* or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Maria A. Pino, (215) 814–2181, or by email at *pino.maria@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

On March 12, 2018 (83 FR 10650), EPA published a notice of proposed rulemaking (NPR) for the Commonwealth of Pennsylvania. In the NPR, EPA proposed approval of Pennsylvania's certification that Pennsylvania's SIP-approved emissions statement regulation meets the emissions statement requirement of section 182(a)(3)(B) of the CAA for the 2008 ozone NAAQS. The formal SIP revision was submitted by Pennsylvania, through the Pennsylvania Department of the Environmental Protection (PADEP), on November 3, 2017.

II. Summary of SIP Revision and EPA Analysis

In Pennsylvania's November 3, 2017 SIP revision submittal, Pennsylvania states that the existing, SIP-approved rule found at 25 Pa. Code 135.21, ''Emissions Statements,'' satisfies CAA section 182(a)(3)(B) for the 2008 ozone NAAQS. Under CAA section 182(a)(3)(B), states are required to have an emission statements rule for ozone nonattainment areas. In addition, states in the ozone transport region are required to have an emission statement rule statewide, including for attainment areas. *See* CAA sections 182(a)(3)(B), 182(f), and 184(b)(2). EPA previously approved Pennsylvania's emissions statement rule for the 1979 1-hour ozone standard, 25 Pa. Code 135.21, into the Pennsylvania SIP. *See* 60 FR 2881 (January 12, 1995). EPA has determined that 25 Pa. Code 135.21, which is currently in the Pennsylvania SIP, is appropriate to address the emissions statement requirement for the 2008 ozone NAAQS. Therefore, EPA is approving this SIP revision that certifies that 25 Pa. Code 135.21 is adequate to satisfy the emissions statement requirement for the 2008 ozone NAAQS. Other specific requirements of the Pennsylvania's emissions statement rule and the rationale for EPA's proposed action are explained in the NPR and will not be restated here.

III. Public Comments

EPA received twenty-three public comments on our March 12, 2018 NPR proposing to approve Pennsylvania's November 3, 2017 submittal. All comments received were not specific to this action, and thus are not addressed here.

IV. Final Action

EPA is approving the Commonwealth of Pennsylvania's November 3, 2017 SIP revision submittal, which addresses the 2008 8-hour ozone NAAQS emissions statement requirement, as a revision to the Pennsylvania SIP.

V. Statutory and Executive Order Reviews

A. General Requirements

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866.
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as