hearing, but for no more than 10 minutes.

Hearing testimony and documentary evidence. Individuals who request more than 10 minutes to present their oral testimony at the hearing or who will submit documentary evidence at the hearing must submit (transmit, send, postmark, deliver) the full text of their testimony and all documentary evidence no later than August 8, 2008.

The Agency will review each submission and determine if the information it contains warrants the amount of time the individual requested for the presentation. If OSHA believes the requested time is excessive, the Agency will allocate an appropriate amount of time for the presentation. The Agency also may limit to 10 minutes the presentation of any participant who fails to comply substantially with these procedural requirements, and may request that the participant return for questioning at a later time. Before the hearing, OSHA will notify participants of the time the Agency is allowing for their presentation and the reasons for its decision. In addition, before the hearing OSHA will provide the pre-hearing guidelines and hearing schedule to each participant.

Certification of the hearing record and Agency final determination. Following the close of the hearing and the post-hearing comment periods, the ALJ will certify the record to the Assistant Secretary of Labor for Occupational Safety and Health. The record will consist of all of the written comments, oral testimony and documentary evidence received during the proceeding. The ALJ, however, will not make or recommend any decisions as to the content of the final standard. Following certification of the record, OSHA will review all the evidence received as part of the record and will issue the final rule based on the record as a whole.

Authority and Signature

Edwin G. Foulke, Jr., Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice under the authority granted by section 6(b) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655), Secretary of Labor's Order 5–2007 (72 FR 31160), and 29 CFR part 1911.

Signed at Washington, DC on this 23rd day of June, 2008.

Edwin G. Foulke, Jr.,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. E8–14672 Filed 6–24–08; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Parts 155 and 156

[USCG–2001–9046]

RIN 1625–AB12

Tank Level or Pressure Monitoring Devices on Single-Hull Tank Ships and Single-Hull Tank Barges Carrying Oil or Oil Residue as Cargo

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to remove its regulations for tank level or pressure monitoring (TLPM) devices because compliant devices remain unavailable. In July 2005, we published a final rule suspending Coast Guard regulations for TLPM devices with a request for public comments on the status of TLPM technology development and other means of detecting leaks from oil cargo tanks into the water. We received two comments supporting our suspension of the regulations for TLPM devices. We received no new information on TLPM devices or alternatives for detecting leaks into the water from single-hull tank vessels carrying oil or oil residue as cargo. Based on the public response to the suspension, the absence of new information regarding TLPM devices or alternatives, and the results of a Congressionally-mandated study, the Coast Guard revisited the feasibility and practicality of retaining regulations for TLPM devices on single-hull tank vessels and concluded that it is appropriate to remove these regulations.

DATES: Comments and related material must reach the Docket Management Facility on or before August 29, 2008.

ADDRESSES: You may submit comments identified by Coast Guard docket number USCG–2001–9046 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://www.regulations.gov*.

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

(3) *Hand Delivery:* Room W12–140 on the Ground Floor of the West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590. Deliveries may be made 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.

The Docket Management Facility maintains the public docket for this rulemaking. Comments and materials received from the public, as well as documents mentioned in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at 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. You can also find this docket on the Internet at *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, contact Mr. Vincent Berg, Regulatory Development Manager, Office of Standards Evaluation and Development (CG–523), Coast Guard, telephone 202–372–1493, or e-mail address, *Vincent.F.Berg@uscg.mil*. For technical questions concerning tank level or pressure monitoring devices contact Ms. Dolores Mercier, Technical Program Manager, Systems Engineering Division (CG–521), Coast Guard, telephone 202–372–1381, or e-mail *Dolores.Mercier@uscg.mil*. If you have questions on viewing or submitting material to the docket, call Ms. Renee V. Wright, Program Manager, Docket Operations, telephone 202–493–0402.

SUPPLEMENTARY INFORMATION:

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I. 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.

A. Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (USCG–2001–9046), 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, mailing address, and an e-mail address or other contact information in the body of your document to ensure that you can be identified as the submitter. This also allows us to contact you in the event further information is needed or if there are questions. For example, if we cannot read your submission because of technical difficulties and you cannot be contacted, your submission may not be considered. 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.

B. 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, click on ''Search for Dockets,'' and enter the docket number for this rulemaking (USCG–2001–9046) in the Docket ID box, and click enter. You may also visit 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.

C. 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*.

D. 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 one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

II. Background and Purpose

The Oil Pollution Act of 1990 (OPA 90) (Pub. L. 101–380), directed the Coast Guard to promulgate a number of regulations, including a variety of standards for the design and operation of equipment to reduce the number and severity of tank vessel oil spill incidents. Section 4110 of OPA 90 (46 U.S.C 3703 note) addressed initiatives to:

- Establish standards for devices that measure oil levels in cargo tanks or devices that monitor cargo tank pressure level (Functionally, these tank level or pressure monitoring (TLPM) devices measure changes in cargo volume, thereby detecting possible oil leaks into the water); and
- Issue regulations establishing requirements concerning the use of these devices on tank vessels carrying oil or oil residue as cargo.

In May 1991, the Coast Guard published in the **Federal Register** an advance notice of proposed rulemaking (ANPRM) seeking public comments related to TLPM devices on tank vessels carrying oil cargo. 56 FR 21116. In August of 1992, the Volpe National Transportation Systems Center completed a feasibility study (Volpe study) on TLPM devices for the Coast Guard Marine Technical and Hazardous Materials Division. Some important features of the Volpe study were:

- Identifying ship motions, sloshing, air pocketing, and the formation of foam in cargo tanks as the major obstacles to accurate tank-level detection;
- Finding that the attainable accuracy with electronic surface level sensing systems is within 2 percent of the actual cargo level; and
- Concluding that the high cost of installing a modern tank level sensing system will naturally lead to development of alternative approaches to leak detection and alarming.

In February 1993, we solicited public comment on the study via **Federal Register** Notice and we held a public meeting at Coast Guard Headquarters in December 1994 to discuss proposed standards and rules for TLPM devices. 58 FR 7292 and 59 FR 58810, respectively. As a result of the comments received, on August 21, 1995, we published a notice of proposed rulemaking (NPRM) to establish minimum performance standards for TLPM devices. 60 FR 43427.

In March 1997, we published a temporary rule on performance standards for TLPM devices. 62 FR 14828. In the temporary rule, we advised the public of our conclusion that current technology could not meet the sensitivity requirements proposed in the NPRM and requested the submission of new or modified TLPM devices that could meet the performance standards set out in the proposed rule. It was our intent to evaluate submitted devices and confirm that they met the performance standards required by the temporary rule. We would have assessed the costs and benefits offered by these devices and used that information to decide whether or not to develop regulations on the installation and use of TLPM devices; but when the temporary rule expired in April 1999, no devices had been submitted to us for evaluation. Therefore, based on the absence of devices that would satisfy our proposed requirements and the negligible contribution TLPM devices would make to prevent oil pollution compared to the rest of the OPA 90 initiatives, we decided not to proceed with regulations that required the use of TLPM devices on single-hull tank vessels.

In 1999, Bluewater Network and Ocean Advocates brought suit in the U.S. Court of Appeals for the District of Columbia Circuit. In their suit, the petitioners asked the Court for a Writ of Mandamus ordering us to promulgate TLPM regulations. In December 2000, the Court agreed with the petitioners on this item and directed the Coast Guard to promptly promulgate regulations setting TLPM standards and requiring use of TLPM devices on tank vessels.

In October 2001, we published in the **Federal Register** another NPRM entitled ''Tank Level or Pressure Monitoring Devices.'' 66 FR 49877. In September 2002, we published the Final Rule for ''Tank Level or Pressure Monitoring Devices.'' 67 FR 58515. This final rule detailed TLPM performance criteria and described the vessels required to install and use TLPM devices by 2007. To date, however, we have identified no devices meeting the performance criteria established in the final rule, and none have been submitted by industry for our evaluation.

In 2004, Congress amended the language of section 4110 of OPA 90 in section 702 of the Coast Guard and Marine Transportation Authorization Act of 2004 (Pub. L. 108–293, 118 Stat 1028 (2004)). The amended statute grants the Coast Guard discretion in establishing performance standards and carriage requirements for TLPM devices. Congress also directed the Coast Guard to study alternatives to TLPM devices for detecting leaks from oil cargo tanks into the water. We submitted the final report to Congress entitled ''Report to Congress on Costs and Benefits of Alternatives to Tank Level or Pressure Monitoring Devices'' (Final Report) in March 2006. A copy of this report was added into the docket for the original TLPM device rulemaking, USCG–2001–9046. We also notified the public of the availability of the final report to Congress through a notice published in the **Federal Register** on November 17, 2006. 71 FR 66960.

In July 2005, we published a final rule suspending the regulations for TLPM devices for three years until July 21, 2008. 70 FR 41614. In the final rule, we also solicited public comment on the status of TLPM technology development and alternatives to TLPM devices. In response, we received two comments supporting our suspension of the regulations for TLPM devices and no new information on TLPM devices or alternatives. In our Final Report, referenced above, we concluded that the ratio of cost versus effectiveness for TLPM devices is greater than it was when the original regulations were published in 2002. 67 FR 58515. As a result, we revisited the feasibility and practicality of retaining regulations for TLPM devices on single-hull tank vessels and concluded that it is appropriate to remove these regulations.

Since the suspension of regulations for TLPM devices would expire on July 21, 2008 and no TLPM devices have been submitted to the Coast Guard for approval, we published another final rule on May 5, 2008 extending the suspension for three additional years until May 5, 2011.

Now, given this background and the continued unavailability of devices meeting the performance criteria established in the final rule, we propose to remove the regulations in 33 CFR parts 155 and 156 for TLPM devices.

III. Regulatory Evaluation

A. Executive Order 12866

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.

A draft Regulatory Assessment follows:

The effectiveness of TLPM devices and alternatives are dependent upon the crew's ability to take corrective action when alerted. Some of the factors affecting the amount of oil saved, or not spilled, include:

- The alarm threshold;
- The size and number of tanks involved;
- The leakage rate;
- The crew's capacity for taking action, such as equipment and training; and
- The time required to respond to an alarm.

While developing the 2002 TLPM device regulations (67 FR 58515, September 17, 2002), we identified 27 pollution incidents during the period from 1992 to 2001 where a TLPM device would have reduced the amount of oil spilled. Our analysis included estimating the barrels of oil that would have been prevented from entering the water by a TLPM device, based on the amount spilled, the failure mechanism (such as tank overfill and hull failure), and factors representing the probability of effectiveness. After analyzing these cases, we found an average of 339 barrels of oil per year would have been prevented from entering the water from 1992 to 2001. We further projected that a TLPM device would result in a benefit of preventing 874 barrels of oil (discounted) from entering the water for the period 2006, when the benefits began accruing, to 2015, when all single-hull tank vessels would be phased out. This figure took into account the dwindling number of single-hull tank vessels between the years 2000 and 2015 and the diminishing risk of pollution.

For the 2002 rule, we estimated the cost to industry was $166.4 million (discounted at 7%) for the five-year phase-in period of the rule, between 2003 and 2007. We calculated a cost-effectiveness figure of about $190,000 per barrel of oil not spilled by dividing the cost of the rule by the projected 874 barrels of oil (discounted at 7%) prevented from entering the water. This means that it costs society approximately $190,000 to keep each barrel of oil out of the water through installation of a compliant TLPM device. The estimate of benefits was based on an assumption that compliant TLPM device technology would be available by 2005. However, no compliant TLPM device technology existed at the publishing of the final rule in 2002 and none has been marketed since then. Table 1 shows the original projections of oil not spilled for 2000 to 2015 as a result of the TLPM device regulations. The full regulatory analysis for the 2002 rulemaking can be found in docket for USCG–2001–9046.

TABLE 1.—BARRELS NOT SPILLED ATTRIBUTABLE TO TLPM DEVICE

Calendar year (CY)	Percent of total available capacity (U.S.)	Schedule of barrels not spilled	Implementation schedule (%)	Benefit for TLPM (barrels not spilled)	Present value PV benefit (barrels not spilled, 2002) *
All Tank Ships (U.S. and International)					
CY 2000	100.00	91.10			
CY 2001	96.17	87.61			
CY 2002	88.16	80.32			
CY 2003	83.59	76.15			
CY 2004	74.90	68.23			
CY 2005	66.60	60.67			
CY 2006	51.36	46.79	33	15.44	11.78
CY 2007	47.35	43.14	66	28.47	20.30
CY 2008	41.66	37.95	100	37.95	25.29
CY 2009	37.25	33.93	100	33.93	21.13
CY 2010	32.82	29.89	100	29.89	17.40
CY 2011	27.11	24.70	100	24.70	13.44
CY 2012	20.43	18.61	100	18.61	9.46

TABLE 1.—BARRELS NOT SPILLED ATTRIBUTABLE TO TLPM DEVICE—Continued

Calendar year (CY)	Percent of total available capacity (U.S.)	Schedule of barrels not spilled	Implementation schedule (%)	Benefit for TLPM (barrels not spilled)	Present value PV benefit (barrels not spilled, 2002) *
CY 2013	15.54	14.16	100	14.16	6.73
CY 2014	12.14	11.06	100	11.06	4.91
CY 2015	0.00				
Total				214.21	130.44
U.S. Tank Barges					
CY 2000	100.00	248.38			
CY 2001	98.00	243.41			
CY 2002	98.08	243.61			
CY 2003	97.63	242.49			
CY 2004	96.16	238.84			
CY 2005	78.02	193.79			
CY 2006	72.85	180.94	33	59.71	45.55
CY 2007	67.77	168.33	66	111.10	79.21
CY 2008	67.77	168.33	100	168.33	112.17
CY 2009	66.59	165.40	100	165.40	103.00
CY 2010	63.65	158.09	100	158.09	92.01
CY 2011	63.65	158.09	100	158.09	85.99
CY 2012	63.65	158.09	100	158.09	80.36
CY 2013	63.65	158.09	100	158.09	75.11
CY 2014	63.65	158.09	100	158.09	70.19
CY 2015	0.00				
Total				1,294.99	743.59
Grand Total				1,509.20	874.03

* Present values discounted at 7%.

To determine if the benefits of installing a TLPM device have increased since publication of the TLPM device regulations, we examined pollution reports involving single-hull tank vessels for 2001 through 2007 The same one percent threshold in the original 2002 TLPM device rulemaking was used to determine how much oil would be prevented from entering the water. For example, if a cargo tank has a capacity of 400,000 gallons (9,524 barrels, 42 gallons = 1 barrel), a one percent threshold would equal 4,000 gallons. Thus, in this example, a TLPM device with the sensitivity currently required in regulations would only detect a spill of 4,000 gallons or more; whereas the data shows many pollution incidents result in spills less than 4,000 gallons.

We followed the same methodology used in the original rulemaking to update our oil pollution information. Of the 599 cases we examined, we found five new instances, resulting in a total of 715 barrels of oil spilled, where a TLPM device would have helped prevent oil from a cargo tank spilling into the water. Two of those cases alone accounted for 626 barrels of oil spilled.

If we consider the very best case and assume we can claim all 715 barrels of oil as a benefit attributable to a TLPM device, the new average annual amount of oil that would be prevented from entering the water by a TLPM device becomes 102 barrels per year versus our earlier calculation of 339 barrels per year. Furthermore, from Table 1, we project the amount of oil that project would be prevented from entering the water between 2008 and 2015 is about 718 barrels (discounted). If we divide the estimated cost of the rule in 2002 ($166.4 million) by the 718 barrels, the new cost-effectiveness figure is about $232,000 per barrel of oil prevented from entering the water.

When we researched the technology that could potentially be applied as an alternative to TLPM devices, we found that commercial, off-the-shelf oil/water interface sensors are available to monitor cargo tank levels. However, although the costs for these types of systems initially appear to be lower than for the liquid level devices that were reviewed as part of the original TLPM device regulations, these costs do not account for the modifications that would be needed for these systems to function as a TLPM device alternative. Developing and testing these systems and confirming they meet performance requirements would likely necessitate substantial research and development and add to the equipment costs.

In 2002, we estimated the total cost to the affected industries of implementing the measures outlined in the final rule would be approximately $166.4 million dollars, all incurred during the 5-year phase-in period. Since the Coast Guard published the final rule in September 2002, no TLPM devices have been submitted to the Coast Guard for approval and there are currently no TLPM devices on the market that meet the performance requirements of 33 CFR 150.490 for a TLPM device. The cost-effectiveness of regulations for TLPM devices continues to degrade. In our March 2006 study on alternatives to TLPM devices, we found that there are some other devices that monitor tank level or pressure; but these devices do not meet the performance requirements of 33 CFR 150.490, and therefore could not be approved as TLPM devices without a substantial investment by the manufacturers to modify and test these devices for the performance standards currently in the regulations. We have seen no indication the maritime industry is willing to make that investment for the shrinking population of vessels comprising the marketplace.

Through this NPRM, we would remove regulations for TLPM devices—a type of shipboard equipment that does not currently exist in the marketplace and which has no practical alternative. We estimate this proposed rule will have no impact on industry.

B. Small Entities

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

We concluded that removing the performance standards for TLPM devices and the requirements for their use will not have a significant economic impact on a substantial number of small entities since industry did not adopt or implement any TLPM provisions. Therefore, the Coast Guard certifies under 5 U.S.C 605(b) that this notice of proposed rulemaking 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 (Pub. L. 104–121), we want to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking. 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 of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

D. Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

E. 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.

It is well settled that States may not regulate in categories reserved for regulation by the Coast Guard. It is also well settled, now, that all of the categories covered in 46 U.S.C. 3306, 3703, 7101, and 8101 (design, construction, alteration, repair, maintenance, operation, equipping, personnel qualification, and manning of vessels), as well as the reporting of casualties and any other category in which Congress intended the Coast Guard to be the sole source of a vessel's obligations, are within the field foreclosed from regulation by the States. (See the decision of the Supreme Court in the consolidated cases of *United States* v. *Locke and Intertanko* v. *Locke*, 529 U.S. 89, 120 S.Ct. 1135 (March 6, 2000)). This rule removes previously published rules on performance standards and use of TLPM devices fall into the category of vessel equipment and operation. Because the States may not regulate within these categories, preemption under Executive Order 13132 is not an issue.

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

G. Taking of Private Property

This rule will 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.

H. Civil Justice Reform

This 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 rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may 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 does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

K. Energy Effects

We have analyzed this 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. As it is not a ''significant energy action,'' this rule is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a ''significant energy action.''

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

M. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 5100.1 and Commandant Instruction M16475.lD, which guide 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 under the Instruction that this action is not likely to have a significant effect on the human environment. A preliminary ''Environmental Analysis Check List'' supporting this determination is available in the docket where indicated under the ''Public Participation and Request for Comments'' section of this preamble. We seek any comments or information that may lead to discovery of a significant environmental impact from this proposed rule.

List of Subjects

33 CFR Part 155

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

33 CFR Part 156

Hazardous substances, Oil pollution, Reporting and recordkeeping requirements, Water pollution control.

For the reasons discussed in the preamble, the Coast Guard is proposing to amend 33 CFR parts 155 and 156 as follows:

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

1. The authority citation for 33 CFR part 155 and the note following citation continue to read as follows:

Authority: 33 U.S.C. 1231, 1321(j); E.O. 11735, 3 CFR, 1971–1975 Comp., p. 793. Sections 155.100 through 155.130, 150.350 through 155.400, 155.430, 155.440, 155.470, 155.1030(j) and (k), and 155.1065(g) are also issued under 33 U.S.C. 1903(b). Sections 155.480, 155.490, 155.750(e), and 155.775 are also issued under 46 U.S.C. 3703. Section 155.490 also issued under section 4110(b) of Pub. L. 101–380. **Note:** Additional requirements for vessels carrying oil or hazardous materials are contained in 46 CFR parts 30 through 40, 150, 151, and 153.

§ 155.200 [Amended]

2. In § 155.200, remove the definition for ''Sea state 5.''

§ 155.490 [Removed and Reserved]

3. Remove and reserve § 155.490.

PART 156—OIL AND HAZARDOUS MATERIAL TRANSFER OPERATIONS

4. The authority citation for 33 CFR part 156 continues to read as follows:

Authority: 33 U.S.C. 1231, 1321(j); 46 U.S.C. 3703a, 3715; E.O. 11735, 3 CFR 1971–1975 Comp., p. 793. Section 156.120(bb) and (ee) are also issued under 46 U.S.C. 3703.

§ 156.120 [Amended]

5. In § 156.120, remove paragraph (ee).

Dated: June 24, 2008.

Brian M. Salerno,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Marine Safety, Security, and Stewardship.

[FR Doc. E8–14800 Filed 6–27–08; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

[Docket No. FEMA–B–7790]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Proposed rule.

SUMMARY: Comments are requested on the proposed Base (1 percent annual-chance) Flood Elevations (BFEs) and proposed BFE modifications for the communities listed in the table below. The purpose of this notice is to seek general information and comment regarding the proposed regulatory flood elevations for the reach described by the downstream and upstream locations in the table below. The BFEs and modified BFEs are a part of the floodplain management measures that the community is required either to adopt or show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP). In addition, these elevations, once finalized, will be used by insurance agents, and others to calculate appropriate flood insurance premium rates for new buildings and the contents in those buildings.

DATES: Comments are to be submitted on or before September 29, 2008.

ADDRESSES: The corresponding preliminary Flood Insurance Rate Map (FIRM) for the proposed BFEs for each community are available for inspection at the community's map repository. The respective addresses are listed in the table below.

You may submit comments, identified by Docket No. FEMA–B–7790, to William R. Blanton, Jr., Chief, Engineering Management Branch, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3151, or (e-mail) *bill.blanton@dhs.gov.*

FOR FURTHER INFORMATION CONTACT: William R. Blanton, Jr., Chief, Engineering Management Branch, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3151 or (e-mail) *bill.blanton@dhs.gov.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) proposes to make determinations of BFEs and modified BFEs for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed BFEs and modified BFEs, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

Comments on any aspect of the Flood Insurance Study and FIRM, other than the proposed BFEs, will be considered. A letter acknowledging receipt of any comments will not be sent.

Administrative Procedure Act Statement. This matter is not a rulemaking governed by the Administrative Procedure Act (APA), 5 U.S.C. 553. FEMA publishes flood elevation determinations for notice and comment; however, they are governed by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and do not fall under the APA.

National Environmental Policy Act. This proposed rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. An environmental impact assessment has not been prepared.

Regulatory Flexibility Act. As flood elevation determinations are not within the scope of the Regulatory Flexibility Act, 5 U.S.C. 601–612, a regulatory flexibility analysis is not required.

Executive Order 12866, Regulatory Planning and Review. This proposed rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866, as amended.

Executive Order 13132, Federalism. This proposed rule involves no policies that have federalism implications under Executive Order 13132.

Executive Order 12988, Civil Justice Reform. This proposed rule meets the applicable standards of Executive Order 12988.