

number of green sturgeon taken directly or incidentally for each project under the NMFS-approved State ESA 4(d) research program.

The public reporting burden per response for this collection-of-information is estimated to average: (1) 40 hours to prepare a written notification describing Federal, State, or private-sponsored research or monitoring activities that comply with the ESA 4(d) Rule exception criteria and 5 hours to prepare reports summarizing those activities; (2) 40 hours to prepare a written notification describing habitat restoration activities that comply with the ESA 4(d) Rule exception criteria and 5 hours to prepare progress reports summarizing those activities; (3) 5 hours to prepare reports on emergency fish rescue activities for Southern DPS fish; (4) 40 hours for development of an FMEP and 5 hours to prepare the biannual reports; (5) 20 hours for development of a TFMP; and (6) 40 hours for development of a State ESA 4(d) research program and 5 hours to prepare the annual reports. These estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection-of-information. Send comments regarding these burden estimates or any other aspect of this data collection, including suggestions for reducing the burden, to the Assistant Regional Administrator, Protected Resources Division, SWR, NMFS (*see ADDRESSES*) and by e-mail to [OIRA\\_Submission@omb.eop.gov](mailto:OIRA_Submission@omb.eop.gov) or fax to 202-395-7285.

**List of Subjects in 15 CFR Part 902**

Reporting and recordkeeping requirements.

Dated: December 8, 2010.

**Samuel D. Rauch III,**  
Deputy Assistant Administrator for  
Regulatory Programs, National Marine  
Fisheries Service.

■ For the reasons set out in the preamble, NMFS amends 15 CFR part 902 as follows:

**PART 902—NOAA INFORMATION COLLECTION REQUIREMENTS UNDER THE PAPERWORK REDUCTION ACT: OMB CONTROL NUMBERS**

■ 1. The authority citation for part 902 continues to read as follows:

**Authority:** 44 U.S.C. 3501 *et seq.*

■ 2. In § 902.1, amend the table in paragraph (b), under the entry “50 CFR” by adding an entry for “223.210” in numerical order, to read as follows:

**§ 902.1 OMB control numbers assigned pursuant to the Paperwork Reduction Act.**

CFR part or section where the information collection requirement is located	Current OMB control number (all numbers begin with 0648-)
50 CFR	
223.210 .....	-0613

[FR Doc. 2010-31216 Filed 12-10-10; 8:45 am]

**BILLING CODE 3510-22-P**

**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 167**

[Docket No. USCG-2010-0718]

RIN 1625-AB55

**Traffic Separation Schemes: In the Approaches to Portland, ME; Boston, MA; Narragansett Bay, RI and Buzzards Bay, MA; Chesapeake Bay, VA, and Cape Fear River, NC**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Interim rule with request for comments.

**SUMMARY:** In this rule, the Coast Guard codifies traffic separation schemes in the approaches to Portland, ME; in the approaches to Boston, MA; in the approaches to Narragansett Bay, RI and Buzzards Bay, MA; and in the approaches to the Cape Fear River, NC. In addition, the Coast Guard updates the current regulations for the traffic separation scheme in the approaches to Chesapeake Bay, VA. The Coast Guard established these traffic separation schemes between 1978 and 2004 under authority of the Ports and Waterways Safety Act. The International Maritime Organization adopted these traffic separation schemes and describes them in their publication, “Ships Routing,” Ninth Edition, 2008. In addition, these traffic separation schemes are already shown on nautical charts and in the United States Coast Pilot published by the National Oceanic and Atmospheric Administration.

**DATES:** This interim rule is effective January 12, 2011. Comments and related

material must either be submitted to our online docket via <http://www.regulations.gov> on or before December 28, 2010 or reach the Docket Management Facility by that date.

**ADDRESSES:** You may submit comments identified by docket number USCG-2010-0718 using any one of the following methods:

- (1) *Federal eRulemaking Portal:* <http://www.regulations.gov>.
- (2) *Fax:* 202-493-2251.
- (3) *Mail:* Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590-0001.

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

To avoid duplication, please use only one of these four methods. *See* the “Public Participation and Request for Comments” portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, contact Mr. George Detweiler, U.S. Coast Guard Office of Navigation Systems, telephone 202-372-1566, or e-mail [George.H.Detweiler@uscg.mil](mailto:George.H.Detweiler@uscg.mil). If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

**SUPPLEMENTARY INFORMATION:**

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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.

### A. Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (USCG–2010–0718), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online, or by fax, mail or hand delivery, but please use only one of these means. We recommend that you include your name and a mailing address, an e-mail address, or a phone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov>, click on the “submit a comment” box, which will then become highlighted in blue. In the “Document Type” drop down menu, select “Proposed Rule” and insert “USCG–USCG–2010–0718” in the “Keyword” box. Click “Search” then click on the balloon shape in the “Actions” column. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change this rule based on your comments.

### 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>, click on the “read comments” box, which will then become highlighted in blue. In the “Keyword” box insert “USCG–USCG–2010–0718” and click “Search.” Click the “Open Docket Folder” in the “Actions” column. If you do not have access to the Internet, you may view the

docket online by visiting the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

### C. Privacy Act

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

### D. Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for one using one of the methods specified under **ADDRESSES**. In your request, explain why you believe a public meeting 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. Abbreviations

2004 Act Coast Guard and Maritime Transportation Act of 2004  
 ATBA Area to be Avoided  
 DHS Department of Homeland Security  
 FR **Federal Register**  
 IMO International Maritime Organization  
 NOAA National Oceanic and Atmospheric Administration  
 NPRM Notice of Proposed Rulemaking  
 PARS Port Access Route Study  
 PWSA Ports and Waterways Safety Act  
 TSS Traffic Separation Scheme  
 U.S.C. United States Code

## III. Background

### A. General

In the Ports and Waterways Safety Act (PWSA), 33 U.S.C. 1221–1232, the Secretary of the Department in which the Coast Guard operates is granted authority to establish traffic separation schemes (TSSs), where necessary, to provide safe access routes for vessels proceeding to or from U.S. ports. This authority is delegated to the Commandant of the Coast Guard in Department of Homeland Security Delegation No. 0170.1.

The Coast Guard conducts a Port Access Route Study (PARS) to evaluate potential traffic density and the need for safe access routes for vessels before establishing a traffic separation scheme.

We publish a notice of the PARS in the **Federal Register**. Through the PARS process, we seek public comment, hold public meetings when requested, confer with affected parties and consult with State and local entities to reconcile the need for safe access routes with the need to accommodate other reasonable uses of the waterway, such as oil and gas exploration, deepwater port construction, establishment of marine sanctuaries, and recreational and commercial fishing.

Under the provisions of the PWSA, we must publish a notice of proposed rulemaking if we contemplate establishing or amending a TSS. Likewise, we must publish a notice in the **Federal Register** when we do not seek to establish or amend a TSS as a result of the PARS.

In addition, we must notify the appropriate international organizations of TSS designations, such as the International Maritime Organization (IMO), and seek the cooperation of foreign states in making use of the TSS mandatory for vessels under their jurisdiction to the same extent as required for U.S. vessels.

We notify the IMO of a new or modified TSS by submitting a proposal asking that the Maritime Safety Committee of the IMO adopt the new or modified TSS. We take this action not only to fulfill our statutory responsibilities under the PWSA, but also to follow the procedures of the IMO General Provisions for Ships’ Routeing (IMO Assembly Resolution A.572(14)). When the IMO adopts a TSS, it notifies the international maritime and hydrographic communities through a Marine Safety Committee circular and adds the TSS to its publication, “Ships’ Routeing.” In this role, the IMO serves as the only international forum on guidelines, criteria, and regulations for ship routing measures.

### B. TSS History

The Coast Guard established the TSS in the approaches to Portland, ME, in 1978. On February 10, 2005, the Coast Guard published a notice of study announcing a PARS to Evaluate the Vessel Routing Measures in the Approaches to Portland, ME, and Casco Bay, ME, (70 FR 7067). We completed the PARS in 2006 and concluded that no amendment to the TSS was needed. This TSS, though unchanged since 1978, is not incorporated in the Code of Federal Regulations (CFR). The IMO has adopted this TSS, and it is described in “Ships’ Routeing.”

We established the TSS in the approach to Boston, MA, in 1973 and amended it in 1983, 2007, and 2009.

On August 9, 2004, Congress enacted the Coast Guard and Maritime Transportation Act of 2004 (Pub. L. 108–293). In section 626, Congress directed the Secretary of Homeland Security to cooperate with the National Oceanic and Atmospheric Administration (NOAA) in analyzing potential vessel routing measures for reducing vessel strikes of North Atlantic right whales, and to submit a report on the analysis by February 2006.

On February 18, 2005, the Coast Guard announced a PARS of Potential Vessel Routing Measures To Reduce Vessel Strikes of North Atlantic Right Whales (70 FR 8312). We analyzed potential vessel routing measures and considered adjusting existing vessel routing measures in the northern region of the Atlantic Coast, which included Cape Cod Bay, the area off Race Point at the northern end of Cape Cod, and the Great South Channel. The Coast Guard used the information from the PARS to prepare and submit our report to Congress on May 8, 2006. A copy of our report is contained in the docket for this rulemaking.

The Coast Guard announced the results of the PARS on May 24, 2006 (71 FR 29876). We recommended realigning and amending the location and size of the western portion of the TSS in the approach to Boston, MA. We revised the TSS in 2007, and the new configuration appeared on nautical charts soon thereafter.

On November 19, 2007, the Coast Guard announced a second PARS to Analyze Potential Vessel Routing Measures to Reduce Vessel Strikes of North Atlantic Right Whales While also Minimizing Adverse Effects on Vessel Operations (72 FR 64968). The study area included approaches to Boston, MA, specifically, a northern right whale critical habitat in the area east and south of Cape Cod, MA, and the Great South Channel, including Georges Bank out to the exclusive economic zone boundary. The results of the PARS can be found in docket number USCG–2007–0057. In this second PARS, we recommended establishing a seasonal Area to be Avoided (ATBA) and amending the southeastern portion of the TSS to make it uniform throughout its length. In 2009, we revised the TSS and established the ATBA. The revised TSS and the ATBA appear on nautical charts. However, neither the revised TSS nor the ATBA were added to the CFR. The IMO has adopted the revised TSS and the ATBA, and they are described in “Ships’ Routeing.”

We established the TSS in the approaches to Narragansett Bay, RI, and Buzzards Bay, MA, in 1973 and

amended it in 1983. On December 23, 2003, the Coast Guard published a Notice of PARS for Narragansett Bay, RI and Buzzards Bay, MA (68 FR 246). In the PARS, we recommended not changing the existing TSS. This TSS appears on nautical charts but is not included in the CFR. The IMO has adopted this TSS, and it is described in “Ships’ Routeing.”

On January 18, 2002, the Coast Guard published a Notice of PARS for the Approaches to Cape Fear River, NC (67 FR 2616). We announced the completion of the PARS on April 8, 2004 (69 FR 18476). In the PARS, we recommended establishing a precautionary area and TSS near the approaches to the Cape Fear River. We established the recommended precautionary area and TSS in the approaches to the Cape Fear River, NC, in 2004. The precautionary area and TSS appear on nautical charts but are not incorporated in the CFR. The IMO has adopted this precautionary area and TSS, and it is described in “Ships’ Routeing.”

We established the TSS in the approaches to Chesapeake Bay, VA, in 1978, revised it in 1991, and incorporated it in the CFR in 1994 (59 FR 21937). On July 26, 2002, the Coast Guard announced a PARS for the approaches to Chesapeake Bay, VA (67 FR 48837). We recommended an amendment to the Eastern Approach TSS. The amended TSS is shown on nautical charts but is not incorporated in the CFR. The IMO adopted this amendment to the TSS, and it is described in “Ships’ Routeing.”

Each of the TSSs described in this section appears on nautical charts and is described in the United States Coast Pilot published by NOAA. All vessels over 1600 gross registered tons must have nautical charts and a copy of the United States Coast Pilot when operating in the navigable waters of the United States (33 CFR 164.33).

The nautical charts showing these TSSs and the United States Coast Pilot can be viewed on the Internet through the NOAA Office of Coast Survey Web site at: <http://www.nauticalcharts.noaa.gov/mcd/OnLineViewer.html>.

These TSSs have also been adopted by the IMO and are included in the current version of “Ships’ Routeing.” This publication is available by contacting the IMO at: IMO Publishing, 4 Albert Embankment, London SE1 7SR, United Kingdom. e-mail: [sales@imo.org](mailto:sales@imo.org).

#### C. Regulatory History

The Coast Guard did not publish a Notice of Proposed Rulemaking (NPRM)

for this rule. Under the Administrative Procedure Act (APA) “good cause” exception at 5 U.S.C. 553(b)(B), an agency may dispense with notice and comment procedures if the agency finds that following these APA requirements would be “impracticable, unnecessary, or contrary to the public interest.” The Coast Guard determined that good cause exists for dispensing with notice and comment procedures for this rule because notice and comment is unnecessary.

Notice and comment for this rulemaking is unnecessary because the codification of these TSSs is both insignificant in nature and impact, and inconsequential to the industry and the public. Mariners navigate not by what is in the CFR, but by what appears on nautical charts. This rule merely codifies TSSs as they have appeared on nautical charts and in United States Coast Pilot and IMO Publications, and as they have been used by mariners, for several years.

Additionally, the use of a TSS by a mariner is strictly voluntary and the codification of these TSSs does not create a requirement or impose a burden on either the mariner or the public. Further, the inclusion of these TSSs into the CFR does not impose a new requirement and will not alter the decision of a mariner to use or not use a TSS. These TSSs have appeared on nautical charts and have been used by mariners for several years and there have been no comments, complaints or requests for modification from either mariners or the public.

#### IV. Discussion of the Interim Rule

Through this interim final rule, the Coast Guard codifies the coordinates of the TSSs in the approaches to Portland, ME, in the approaches to Boston, MA, in the approaches to Narragansett Bay, RI, and Buzzards Bay, MA, and in the approaches to the Cape Fear River, NC. Through this interim final rule, we also amend the existing TSS in the approaches to Chesapeake Bay, VA.

The latitude and longitude details of the TSS coordinates are shown in the regulatory text of this interim final rule. We note that reading the coordinates is not sufficiently informative and that the applicable nautical charts should be consulted to fully appreciate the position and configuration of the TSSs. However, these charts are too large a scale to reproduce in the **Federal Register**. Therefore, we recommend viewing these TSSs with the NOAA Nautical Chart On-Line Viewer. The Web site for each TSS is listed below.

*A. In the Approaches to Portland, ME*

The existing TSS in the approaches to Portland, ME, (NOAA chart 13292, Portland Harbor and Vicinity) can be viewed by using the NOAA Nautical Chart On-Line Viewer at address: <http://www.charts.noaa.gov/OnLineViewer/13292.shtml>.

*B. In the Approaches to Boston, MA*

The existing TSS in the approaches to Boston, MA and the ATBA (NOAA chart 13267, Massachusetts Bay) can be viewed by using the NOAA Nautical Chart On-Line Viewer at address: <http://www.charts.noaa.gov/OnLineViewer/13267.shtml>.

*C. In the Approaches to Narragansett Bay, RI and Buzzards Bay, MA*

The existing TSS in the approaches to Boston, MA, (NOAA chart 13218, Martha's Vineyard to Block Island) can be viewed by using the NOAA Nautical Chart On-Line Viewer at address: <http://www.charts.noaa.gov/OnLineViewer/13218.shtml>.

*D. In the Approaches to Chesapeake Bay, VA*

The existing TSS in the approaches to Chesapeake Bay, VA, (NOAA chart 12221, Chesapeake Bay Entrance) can be viewed by using the NOAA Nautical Chart On-Line Viewer at address: <http://www.charts.noaa.gov/OnLineViewer/12221.shtml>.

*E. In the Approaches to Cape Fear River, NC*

The existing TSS in the approaches to Cape Fear River, NC and the Precautionary Area (NOAA chart 11536, Approaches to Cape Fear River) can be viewed by using the NOAA Nautical Chart On-Line Viewer at address: <http://www.charts.noaa.gov/OnLineViewer/11536.shtml>.

**V. Regulatory Analyses**

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

*A. Regulatory Planning and Review*

This 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.

As previously discussed, the TSSs codified in this interim final rule were

adopted by IMO and are reflected on current nautical charts and in nautical publications. We anticipate no increased costs for vessels traveling within the aforementioned areas.

These internationally recognized traffic separation schemes provide better routing order and predictability, increase maritime safety, and reduce the potential for collisions, groundings, and hazardous cargo spills.

By codifying these existing TSSs, we record the latitudes and longitudes of the TSSs' coordinates in the CFR tables and make it easier for the public to reference our regulations when recommending modifications or other operational considerations. Including them in the CFR merely memorializes the position and configuration of the TSSs and does not impact mariner actions or expectations.

*B. Small Entities*

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

As this rule serves to codify in the CFR TSSs that have already been implemented, we estimate that there will be no increased costs due to this rule.

Therefore, the Coast Guard certifies, under 5 U.S.C. 605(b), that this interim final rule does not have a significant economic impact on a substantial number of small entities.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule will have a significant economic impact on it, please submit a comment to the Docket Management Facility at the address under **ADDRESSES**. In your comment, explain why you think it qualifies and how and to what degree this rule would economically affect it.

*C. Assistance for Small Entities*

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offer to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking. If you believe this rule affects your small business, organization, or governmental jurisdiction and you have questions

concerning its provisions or options for compliance, please consult Mr. George Detweiler, Office of Navigation Systems, telephone 202–372–1566. The U.S. Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the U.S. Coast Guard.

*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.

We have analyzed this rule under that Order and have determined that it has federalism implications. Conflict preemption principles apply to PWSA Title I, and the TSSs in this rule are issued under the authority of PWSA Title I. These TSSs are specifically intended to have preemptive impact over State law covering the same subject matter in the same geographic area.

Title I of PWSA (33 U.S.C. 1221 *et seq.*) authorizes the Secretary to issue regulations to designate TSSs to provide safe access routes for the movement of vessel traffic proceeding to or from ports or places subject to the jurisdiction of the United States. In enacting the PWSA in 1972, Congress found that advance planning and consultation with the affected States and other stakeholders was necessary in the development and implementation of a TSS. Throughout the history of the development of the TSSs that are the subject of this rule, we have sought input from the public and consulted with the affected State and Federal pilots' associations, vessel operators, users, environmental advocacy groups, and all affected stakeholders.

Presently, there are no State laws or regulations in the States affected by this rule concerning the same subjects as those contained in this rule. We understand that the affected States do not contemplate issuing any such regulations.

Foreign vessel owners and operators usually become aware of TSSs when the TSSs are added to the United States Coast Pilot and the nautical charts that are required on each ship operating in U.S. waters by 33 CFR 164.33. Foreign vessel owners and operators also become aware of TSSs through their

national IMO delegation and IMO publications.

The individual States of the United States are not represented at the IMO as that is the role of the Federal Government. The U.S. Coast Guard is the principal agency responsible for advancing the interests of the United States at the IMO. In this role, we solicit comments from the stakeholders through public meetings and develop a unified U.S. position prior to attending sessions of the IMO Subcommittee on Safety of Navigation and the Maritime Safety Committee where TSSs are discussed.

*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 (adjusted for inflation) 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 this preamble.

*G. Taking of Private Property*

This 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 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 because it is not a “significant regulatory action” under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

*L. Technical Standards*

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

This rule does not use technical standards, nor is the Coast Guard aware of the existence of any standards that address these TSSs. Therefore, we did not consider the use of voluntary consensus standards.

*M. Environment*

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.ID, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded under section 2.B.2, figure 2–1, paragraph (34)(i) of the Instruction. This rule involves navigational aids, which include TSSs. An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under **ADDRESSES**.

**List of Subjects in 33 CFR Part 167**

Harbors, Incorporation by reference, Marine safety, Navigation (water), Waterways.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 167, subpart B as follows:

**PART 167—[AMENDED]**

■ 1. Revise the authority citation for part 167 to read as follows:

**Authority:** 33 U.S.C. 1223; Department of Homeland Security Delegation No. 0170.0.

■ 2. Add § 167.50 to read as follows:

**§ 167.50 In the approaches to Portland, ME: General.**

The traffic separation scheme in the approaches to Portland, ME, consists of three parts: A precautionary area, an Eastern approach and a Southern approach. The specific areas in the traffic separation scheme in the approaches to Portland, ME, are described in §§ 167.51 through 167.53.

■ 3. Add § 167.51 to read as follows:

**§ 167.51 In the approaches to Portland, ME: Precautionary area.**

A precautionary area is established with a radius of 5.45 miles centered upon geographical position 43°31.60′ N, 70°05.53′ W, the areas within separation zones and traffic lanes excluded.

■ 4. Add § 167.52 to read as follows:

**§ 167.52 In the approaches to Portland, ME: Eastern approach.**

(a) A separation zone 1 mile wide is established and is centered upon the following geographical positions:

Latitude	Longitude
43°30.18′ N .....	069°59.17′ W.
43°24.28′ N .....	069°32.70′ W.

(b) A traffic lane ½ miles wide is established on each side of the separation zone.

■ 5. Add § 167.53 to read as follows:

**§ 167.53 In the approaches to Portland, ME: Southern approach.**

(a) A separation zone 1 mile wide is established and is centered upon the following geographical positions:

Latitude	Longitude
43°27.00′ N .....	70°03.48′ W.
43°07.82′ N .....	69°54.95′ W.

(b) A traffic lane 1½ mile wide is established on each side of the separation zone.

■ 6. Add § 167.75 to read as follows:

**§ 167.75 In the approach to Boston, MA: General.**

The traffic separation scheme (TSS) in the approach to Boston, MA, consists of three parts: Two precautionary areas and a TSS. The specific areas in the TSS in the approach to Boston, MA, are described in §§ 167.76 and 167.77. The geographic coordinates in §§ 167.76 and 167.77 are defined using North American Datum 1983 (NAD 83), which is equivalent to WGS 1984 datum.

- 7. Add § 167.76 to read as follows:

**§ 167.76 In the approach to Boston, MA: Precautionary areas.**

(a) A precautionary area is established with a radius of 6.17 nautical miles centered upon geographical position 42°22.71' N, 70°46.97' W.

(b) (1) A precautionary area is established and is bounded to the east by a circle of radius 15.5 miles, centered upon geographical position 40°35.01' N, 68°59.96' W, intersected by the traffic separation schemes in the approach to Boston, MA, and Eastern approach, off Nantucket (part II of the TSS off New York) at the following geographical positions:

Latitude	Longitude
40°50.47' N .....	68°58.67' W.
40°23.75' N .....	69°13.95' W.

(2) The precautionary area is bounded to the west by a line connecting the two TSSs between the following geographical positions:

Latitude	Longitude
40°48.03' N .....	69°02.95' W.
40°36.76' N .....	69°15.13' W.

- 8. Add § 167.77 to read as follows:

**§ 167.77 In the approach to Boston, MA: Traffic Separation Scheme.**

(a) A separation zone 1 mile wide is established and is centered upon the following geographic positions:

Latitude	Longitude
42°20.73' N .....	70°39.06' W.
42°18.28' N .....	70°01.14' W.
40°49.25' N .....	69°00.81' W.

(b) A traffic lane for northbound traffic is established between the separation zone and a line connecting the following geographical positions:

Latitude	Longitude
40°50.47' N .....	68°58.67' W.
42°20.17' N .....	69°59.40' W.
42°22.71' N .....	70°38.62' W.

(c) A traffic lane for southbound traffic is established between the separation zone and a line connecting the following geographical positions:

Latitude	Longitude
42°18.82' N .....	70°40.49' W.
42°16.39' N .....	70°02.88' W.
40°48.03' N .....	69°02.95' W.

- 9. Add § 167.100 to read as follows:

**§ 167.100 In the approaches to Narragansett Bay, RI, and Buzzards Bay, MA: General.**

The traffic separation scheme in the approaches to Narragansett Bay, RI, and Buzzards Bay, MA, consists of four parts: Two precautionary areas and two approaches—a Narragansett approach and a Buzzards Bay approach. The specific areas in the approaches to Narragansett Bay, RI, and Buzzards Bay, MA, are described in §§ 167.101 through 167.103. The geographic coordinates in §§ 167.101 through 167.103 are defined using North American Datum 1983 (NAD 83), which is equivalent to WGS 1984 datum.

- 10. Add § 167.101 to read as follows:

**§ 167.101 In the approaches to Narragansett Bay, RI, and Buzzards Bay, MA: Precautionary areas.**

(a) A precautionary area is established with a radius of 5.4 miles and is centered upon geographical position 41°06.00' N, 71°23.30' W.

(b) A precautionary area is established with a radius of 3.55 miles and is centered upon geographical position 41°25.60' N, 71°23.30' W.

- 11. Add § 167.102 to read as follows:

**§ 167.102 In the approaches to Narragansett Bay, RI, and Buzzards Bay, MA: Narragansett Bay approach.**

(a) A separation zone 2 miles wide is established and is centered upon the following geographical positions:

Latitude	Longitude
41°22.70' N .....	71°23.30' W.
41°11.10' N .....	71°23.30' W.

(b) A traffic lane 1 mile wide is established on each side of the separation zone.

- 12. Add § 167.103 to read as follows:

**§ 167.103 In the approaches to Narragansett Bay, RI, and Buzzards Bay, MA: Buzzards Bay approach.**

(a) A separation zone 1 mile wide is established and is centered upon the following geographical positions:

Latitude	Longitude
41°10.20' N .....	71°19.10' W.
41°21.80' N .....	71°07.10' W.

(b) A traffic lane 1 mile wide is established on each side of the separation zone.

**Note to § 167.103:** A restricted area, 2 miles wide, extending from the southern limit of the Narragansett Bay approach traffic separation zone to latitude 41°24.70' N, has been established. The restricted area will only be closed to ship traffic by the Naval Underwater System Center during periods of daylight and optimum weather conditions for torpedo range usage. The closing of the restricted area will be indicated by the activation of a white strobe light mounted on Brenton Reef Light and controlled by a naval ship supporting the torpedo range activities. There would be no ship restrictions expected during inclement weather or when the torpedo range is not in use.

**§ 167.200 [Amended]**

- 13. In § 167.200(a), remove the text “13.5 meters (45 feet)” wherever it appears, and add, in its place, the text “12.8 meters (42 feet).”

**§ 167.201 [Amended]**

- 14. In § 167.201, remove the text “36°56.14' N” and add, in its place, the text “36°56.13' N”; and remove the text “75°57.43' W” and add, in its place, the text “75°57.45' W”.

- 15. Revise § 167.202 to read as follows:

**§ 167.202 In the approaches to Chesapeake Bay: Eastern approach.**

(a) A separation line is established connecting the following geographical positions:

Latitude	Longitude
36°57.50' N .....	75°48.21' W.
36°56.40' N .....	75°52.40' W.
36°56.40' N .....	75°54.95' W.

(b) A traffic lane for westbound traffic is established between the separation line and a line connecting the following geographical positions:

Latitude	Longitude
36°57.94' N .....	75°48.41' W.
36°56.90' N .....	75°52.40' W.
36°56.80' N .....	75°55.14' W.

(c) A traffic lane for eastbound traffic is established between the separation line and a line connecting the following geographical positions:

Latitude	Longitude
36°57.04' N .....	75°48.01' W.

Latitude	Longitude
36°55.88' N .....	75°52.40' W.
36°55.88' N .....	75°54.95' W.

■ 16. Revise § 167.203 to read as follows:

**§ 167.203 In the approaches to Chesapeake Bay: Southern approach.**

(a) A separation line connects the following geographical positions:

Latitude	Longitude
36°50.33' N .....	75°46.29' W.
36°52.90' N .....	75°51.52' W.
36°55.96' N .....	75°54.97' W.

(b) A separation line connects the following geographical positions:

Latitude	Longitude
36°55.11' N .....	75°55.23' W.
36°52.35' N .....	75°52.12' W.
36°49.70' N .....	75°46.80' W.

(c) A separation line connects the following geographical positions:

Latitude	Longitude
36°49.52' N .....	75°46.94' W.
36°52.18' N .....	75°52.29' W.
36°54.97' N .....	75°55.43' W.

(d) A separation line connects the following geographical positions:

Latitude	Longitude
36°54.44' N .....	75°56.09' W.
36°51.59' N .....	75°52.92' W.
36°48.87' N .....	75°47.42' W.

(e) A traffic lane for inbound traffic is established between the separation lines described in paragraphs (a) and (b) of this section.

(f) A traffic lane for outbound traffic is established between the separation lines described in paragraphs (c) and (d) of this section.

(g) A deep-water route is established between the separation lines described in paragraphs (b) and (c) of this section. The following vessels should use the deep-water route established in paragraph (g) of this section when bound for Chesapeake Bay from sea or to sea from Chesapeake Bay:

(1) Deep draft vessels (drafts greater than 13.5 meters/45 feet in fresh water); and

(2) Naval aircraft carriers.

(h) It is recommended that a vessel using the deep-water route established in paragraph (g) of this section—

(1) Announce its intention on VHF-FM Channel 16 as it approaches

Chesapeake Bay Southern Approach Lighted Whistle Buoy CB on the south end, or Chesapeake Bay Junction Lighted Buoy CBJ on the north end of the route;

(2) Avoid, as far as practicable, overtaking other vessels operating in the deep-water route; and

(3) Keep as near to the outer limit of the route which lies on the vessel's starboard side as is safe and practicable.

(i) Vessels other than those listed in paragraph (d) of this section should not use the deep-water route.

■ 17. Add § 167.250 to read as follows:

**§ 167.250 In the approaches to the Cape Fear River: General.**

The traffic separation scheme (TSS) in the approaches to the Cape Fear River consists of two parts: A precautionary area and a TSS. The specific areas in the approaches to Narragansett Bay, RI, and Buzzards Bay, MA, are described in §§ 167.251 and 167.252. The geographic coordinates in §§ 167.251 and 167.252 are defined using North American Datum 1983 (NAD 83), which is equivalent to WGS 1984 datum.

■ 18. Add § 167.251 to read as follows:

**§ 167.251 In the approaches to the Cape Fear River: Precautionary area.**

A precautionary area is established bounded by a line connecting the following geographical positions: from 33°47.65' N, 78°04.78' W; to 33°48.50' N, 78°04.27' W; to 33°49.53' N, 78°03.10' W; to 33°48.00' N, 78°01.00' W; to 33°41.00' N, 78°01.00' W; to 33°41.00' N, 78°04.00' W; to 33°44.28' N, 78°03.02' W; then by an arc of 2 nautical miles radius, centered at 33°46.03' N, 78°05.41' W; then to the point of origin at 33°47.65' N, 78°04.78' W.

■ 19. Add § 167.252 to read as follows:

**§ 167.252 In the approaches to the Cape Fear River: Traffic Separation Scheme.**

(a) A traffic separation zone is established bounded by a line connecting the following geographical positions:

Latitude	Longitude
33°44.94' N .....	78°04.81' W.
33°32.75' N .....	78°09.66' W.
33°34.50' N .....	78°14.70' W.
33°45.11' N .....	78°04.98' W.

(b) A traffic lane for northbound traffic is established between the separation zone and a line connecting the following geographic positions:

Latitude	Longitude
33°32.75' N .....	78°05.99' W.

Latitude	Longitude
33°44.38' N .....	78°03.77' W.

(c) A traffic lane for southbound traffic is established between the separation zone and a line connecting the following geographic positions:

Latitude	Longitude
33°36.22' N .....	78°18.00' W.
33°46.03' N .....	78°05.41' W.

**Note to § 167.252:** A pilot boarding area is located inside the precautionary area. Due to heavy ship traffic, mariners are advised not to anchor or linger in the precautionary area except to pick up or disembark a pilot.

Dated: December 7, 2010.

**P.F. Cook,**

*Captain, U.S. Coast Guard, Acting Director of Marine Transportation Systems Management.*

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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 679**

[Docket No. 101006495-0498-01]

**RIN 0648-BA31**

**Fisheries of the Exclusive Economic Zone Off Alaska; Steller Sea Lion Protection Measures for the Bering Sea and Aleutian Islands Groundfish Fisheries Off Alaska**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Interim final rule; request for comments.

**SUMMARY:** NMFS issues an interim final rule to implement Steller sea lion protection measures to insure that the Bering Sea and Aleutian Islands management area (BSAI) groundfish fisheries off Alaska are not likely to jeopardize the continued existence of the western distinct population segment (DPS) of Steller sea lions or adversely modify its designated critical habitat. These management measures will disperse fishing effort over time and area to provide protection from potential competition for important Steller sea lion prey species in waters adjacent to rookeries and important haulouts in the BSAI. The intended effect of this interim final rule is to