

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

We have reviewed this rule under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments. Rulemakings that are determined to have “tribal implications” under that Order (*i.e.*, those that 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) require the preparation of a tribal

summary impact statement. This rule will not have implications of the kind envisioned under the Order because it will not impose substantial direct compliance costs on tribal governments, preempt tribal law, or substantially affect lands or rights held exclusively by, or on behalf of, those governments.

Whether or not the Executive Order applies in this case, it is the policy of the Department of Homeland Security and the U.S. Coast Guard to engage in meaningful consultation and collaboration with tribal officials in policy decisions that have tribal implications under the Presidential Memorandum of November 5, 2009, (74 FR 57881, November 9, 2009), and to seek out and consult with Native Americans on all of its rulemakings that may affect them. We regularly consulted and collaborated with the Tribes throughout the PARS and this rulemaking. For a complete discussion of these consultations see the interim rule (75 FR 70818, 70825).

In the IR, the Coast Guard invited comments on how the codification of the existing TSSs might impact tribal governments, even if that impact may not constitute a “tribal implication” under the Order. We received no comments to our request.

#### 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 which 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, Marine safety, Navigation (water), Waterways.

Accordingly, the interim rule amending 33 CFR part 167, subpart B, which was published at 75 FR 70818 on November 19, 2010, is adopted as a final rule.

Dated: April 11, 2011.

**Dana A. Goward,**

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

[FR Doc. 2011–9895 Filed 4–25–11; 8:45 am]

**BILLING CODE 9110–04–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:** Final rule.

**SUMMARY:** The Coast Guard is finalizing without change its December 13, 2010, interim rule codifying 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, and updating the then-current regulations for the traffic separation scheme in the approaches to Chesapeake Bay, VA. The Coast Guard established these traffic separation schemes under authority of the Ports and Waterways Safety Act.

**DATES:** This final rule is effective May 26, 2011.

**ADDRESSES:** Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG–2010–0718 and are available for inspection or copying at the 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, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet by going to <http://www.regulations.gov>, inserting USCG–2010–0718 in the “Keyword” box, and then clicking “Search”.

**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 the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

**SUPPLEMENTARY INFORMATION:**

- I. Abbreviations
- II. Regulatory History
- III. Background
- IV. Discussion of Comments and Changes
- V. Regulatory Analyses
  - A. Executive Order 12866 and Executive Order 13563
  - B. Small Entities
  - C. Assistance for Small Entities
  - D. Collection of Information
  - E. Federalism
  - F. Unfunded Mandates Reform Act
  - G. Taking of Private Property
  - H. Civil Justice Reform
  - I. Protection of Children
  - J. Indian Tribal Governments
  - K. Energy Effects
  - L. Technical Standards
  - M. Environment

**I. Abbreviations**

2004 Act Coast Guard and Maritime Transportation Act of 2004  
 ATBA Area to be Avoided

CFR Code of Federal Regulations  
 DHS Department of Homeland Security  
 FR Federal Register  
 IMO International Maritime Organization  
 NOAA National Oceanic and Atmospheric Administration  
 PARS Port Access Route Study  
 PAWSA Ports and Waterways Safety Act  
 TSS Traffic Separation Scheme  
 U.S.C. United States Code

**II. Regulatory History**

On December 13, 2010, the Coast Guard published an interim rule (75 FR 77529) that codified existing Traffic Separation Schemes (TSSs) in the Approaches to Portland, ME; Boston, MA; Narragansett Bay, RI and Buzzards Bay, MA; Chesapeake Bay, VA; and Cape Fear River, NC. The Coast Guard did not publish a Notice of Proposed Rulemaking (NPRM) for this rule under the Administrative Procedure Act “good cause” exception at 5 U.S.C. 553(b)(B). The interim rule sought comments on the enumerated TSSs. The comment period closed December 28, 2010, and we received no public comments on the interim rule. No public meeting was requested and none was held.

The interim rule became effective on January 12, 2011. There are no changes from the interim rule to this final rule.

**III. Background**

With this rule, the Coast Guard finalizes without change the codification of the traffic separation schemes (TSSs) identified above. The Coast Guard created each of these TSSs after conducting a Port Access Route Study (PARS) in accordance with the Ports and Waterways Safety Act (PAWSA) 33 U.S.C. 1221–1232. Each TSS that is part of this rulemaking is shown on nautical charts, is described in the United States Coast Pilot, was implemented by the International Maritime Organization, and is described in “Ships Routing,” Tenth Edition, 2010. Each TSS has also been codified in the CFR since January 12, 2011, when the interim rule became effective. For a full discussion of the basis and purpose of this rulemaking see the interim rule (75 FR 77529, 77530).

**IV. Discussion of Comments and Changes**

We received no public comments in response to our interim rule. Accordingly, the Coast Guard has made no changes in this final rule. A full discussion of the provisions of this rule may be found in the “Discussion of Interim Rule” section of the interim rule. (75 FR 77529, at 77531).

**V. Regulatory Analyses**

We developed this final rule after considering numerous statutes and executive orders related to rulemaking. We summarize our analyses based on 13 of these statutes or executive orders in the paragraphs that follow.

*A. Executive Order 12866 and Executive Order 13563*

This rule is not a “significant regulatory action” under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, 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 finalized by this final rule were codified by the interim rule, implemented 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 finalizing the interim rule we complete the process of recording 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. This rule finalizes incorporation of the TSSs in the CFR 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 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 finalize 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 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. It should be noted that, by virtue of the PWSA authority, the TSSs in this rule preempt any State rule on the same subject.

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 by 33 CFR 164.33 to be on each ship operating in U.S. waters. 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

We have reviewed this rule under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments. Rulemakings that are determined to have “tribal implications” under that Order (i.e., those that 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) require the preparation of a tribal summary impact statement. This rule will not have implications of the kind envisioned under the Order because it will not impose substantial direct compliance costs on tribal governments, preempt tribal law, or substantially affect lands or rights held exclusively by, or on behalf of, those governments.

Whether or not the Executive Order applies in this case, it is the policy of the Department of Homeland Security and the U.S. Coast Guard to engage in meaningful consultation and collaboration with tribal officials in policy decisions that have tribal implications under the Presidential Memorandum of November 5, 2009, (74 FR 57881, November 9, 2009), and to seek out and consult with Native Americans on all of its rulemakings that may affect them.

#### 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, Marine safety, Navigation (water), Waterways.

Accordingly, the interim rule amending 33 CFR part 167, subpart B, which was published at 75 FR 77529 on December 13, 2010, is adopted as a final rule.

Dated: April 4, 2011.

**Dana A. Goward,**

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

[FR Doc. 2011-9892 Filed 4-25-11; 8:45 am]

**BILLING CODE 9110-04-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R05-OAR-2010-0946; FRL-9294-7]

### Approval and Promulgation of Air Quality Implementation Plans; IL

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** EPA is approving a revision to the Illinois State Implementation Plan (SIP) for ozone. The State is revising its definition of volatile organic compound (VOC) to add two chemical compounds to the list of compounds that are exempt from being considered a VOC. This revision is based on EPA's 2009 determination that these two compounds do not significantly contribute to ozone formation.

**DATES:** This direct final rule will be effective June 27, 2011, unless EPA receives adverse comments by May 26, 2011. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R05-OAR-2010-0946, by one of the following methods:

1. *http://www.regulations.gov*: Follow the on-line instructions for submitting comments.
2. *E-mail*: [aburano.douglas@epa.gov](mailto:aburano.douglas@epa.gov).
3. *Fax*: (312) 408-2279.
4. *Mail*: Douglas Aburano, Chief, Control Strategies Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.
5. *Hand Delivery*: Douglas Aburano, Chief, Control Strategies Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

**Instructions:** Direct your comments to Docket ID No. EPA-R05-OAR-2010-0946. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov*, including any personal information provided, unless

the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

**Docket:** All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Charles Hatten, Environmental Engineer, (312) 886-6031 before visiting the Region 5 office.

**FOR FURTHER INFORMATION CONTACT:** Charles Hatten, Environmental Engineer, Control Strategies Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-6031, [hatten.charles@epa.gov](mailto:hatten.charles@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document whenever "we," "us," or "our" is used, we mean