

Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

#### *Regulatory Flexibility Act*

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Therefore, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

#### *Small Business Regulatory Enforcement Fairness Act*

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

- a. Does not have an annual effect on the economy of \$100 million.
- b. Will not cause a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions.
- c. Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S. based enterprises to compete with foreign-based enterprises.

This determination is based upon the fact that the State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule.

#### *Unfunded Mandates*

This rule will not impose a cost of \$100 million or more in any given year on any governmental entity or the private sector.

#### **List of Subjects in 30 CFR Part 936**

Intergovernmental relations, Surface mining, Underground mining.

Dated: July 26, 2002.

**Ervin J. Barchenger,**

*Acting Regional Director, Mid-Continent Regional Coordinating Center.*

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## **DEPARTMENT OF TRANSPORTATION**

### **Coast Guard**

#### **33 CFR Part 167**

[USCG-2002-12702]

RIN 2115-AG45

#### **Traffic Separation Schemes: In the Strait of Juan de Fuca and Its Approaches; in Puget Sound and Its Approaches; and in Haro Strait, Boundary Pass, and the Strait of Georgia**

**AGENCY:** Coast Guard, DOT.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to amend the existing traffic separation schemes (TSSs) in the Strait of Juan de Fuca and its approaches, in Puget Sound and its approaches, and in Haro Strait, Boundary Pass, and the Strait of Georgia. The proposed amendments have been approved by the International Maritime Organization and have been validated by a recent Port Access Route Study. Implementing these amendments would provide better routing order and predictability, increase maritime safety, and reduce the potential for collisions, groundings, and hazardous cargo spills. This rulemaking would incorporate these TSSs, as amended, into the Code of Federal Regulations.

**DATES:** Comments and related material must reach the Docket Management Facility on or before October 28, 2002.

**ADDRESSES:** To make sure that your comments and related material are not entered more than once in the docket, please submit them by only one of the following means:

(1) By mail to the Docket Management Facility (USCG 2002-12702), U.S. Department of Transportation, room PL-401, 400 Seventh Street, SW., Washington, DC 20590-0001.

(2) By delivery to room PL-401 on the Plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202-366-9329.

(3) By fax to the Docket Management Facility at 202-493-2251.

(4) Electronically through the Web Site for the Docket Management System at <http://dms.dot.gov>.

The Docket Management Facility maintains the public docket for this rulemaking. Comments and material 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 PL-401 on the Plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at <http://dms.dot.gov>.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this proposed rule, call Lieutenant Commander Jane C. Wong, Thirteenth Coast Guard District, Seattle, WA, telephone 206-220-7224, e-mail [Jwong@PACNORWEST.uscg.mil](mailto:Jwong@PACNORWEST.uscg.mil); or George Detweiler, Coast Guard, Office of Vessel Traffic Management (G-MWV), at 202-267-0574, e-mail [Gdetweiler@comdt.uscg.mil](mailto:Gdetweiler@comdt.uscg.mil). If you have questions on viewing or submitting material to the docket, call Dorothy Beard, Chief, Dockets, Department of Transportation, telephone 202-366-5149.

#### **SUPPLEMENTARY INFORMATION:**

##### **Request for Comments**

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (USCG-2002-12702), indicate the specific section of this document to which each comment applies, and give the reason for each comment. You may submit your comments and material by mail, hand delivery, fax, or electronic means 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 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. We may change this proposed rule in view of them.

##### **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**.

##### **Background and Purpose**

Under the Ports and Waterways Safety Act (33 U.S.C. 1221-1232) (PWSA), the

Coast Guard establishes traffic separation schemes (TSSs), where necessary, to provide safe access routes for vessels proceeding to or from U.S. ports. Before implementing new TSSs or modifying existing ones, we conduct a Port Access Route Study (PARS). Through the PARS process, we consulted with affected parties 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. If a PARS recommends a new or modified TSS, we must initiate a rulemaking to implement the TSS. Once a TSS is established, the right of navigation is considered paramount within the TSS.

Approximately 11,000 vessels of greater than 300 gross tons (GT) moved through the Strait of Juan de Fuca in 1999. It is anticipated that this number will increase to approximately 17,000 by the year 2025. In the PARS, it was estimated that approximately 15.1 billion gallons of crude oil, refined products, and bunker fuel oil would be moved through the Strait in 2000. By 2025, the volume is expected to increase to approximately 19.2 billion gallons. About 7.6 billion gallons of this total volume will be crude oil imported to refineries in the Puget Sound area. Additional crude oil is exported from Canada's Port of Vancouver and 2.8 billion gallons of refined products will be exported from Puget Sound.

Other indicators of increasing maritime activity in the area include the following:

1. Expansion of the Port of Vancouver's Delta Port, just north of the international border on the Strait of Georgia in British Columbia. Some experts in the field predict that this facility will become one of the foremost container terminals on the west coast.

2. The proposed gateway terminal near Cherry Point on the Strait of Georgia in Washington State. When constructed, it will create an opportunity for increased vessel transits in the Strait of Georgia.

3. Potential Pacific-Rim trade expansion resulting from China receiving most favored nation trading status. Pacific Northwest ports are closer to the Orient via great-circle routing than are other U.S. mainland ports.

The 1999 Marine Cargo Forecast by the Washington Public Ports Association's projected that the total waterborne tonnage through Puget Sound ports will increase by 42 per cent to nearly 121.6 million tons in 2020, compared with 85.6 million tons in

1997. The report further projected that the total container traffic through the Puget Sound ports of Seattle and Tacoma is expected to grow by 131 per cent, from 2.6 million TEUs (twenty-foot equivalent units) in 1997 to 6 million TEUs in 2020.

Other vessel traffic indicators pertaining to the study area suggest that the greater Puget Sound area constitutes the third largest naval port complex in the United States and supports one of the nation's highest per capita recreational boat ownership populations.

*Existing TSSs.* There are internationally approved TSSs in the Strait of Juan de Fuca and its approaches and in Puget Sound and its approaches. The TSSs in the Strait of Juan de Fuca and its approaches were adopted by the International Maritime Organization (IMO) on April 3, 1981, and implemented on January 1, 1982. The TSSs in Puget Sound and its approaches were adopted by IMO in December 1992 and implemented on June 10, 1993. These TSSs are reflected on NOAA chart 18400 and in "Ships Routeing," Seventh Edition 1999, International Maritime Organization.

*Port Access Route Study (PARS).* We published a notice of study in the **Federal Register** on January 20, 1999 (64 FR 3145). The study was to review and evaluate the need for modifications to current vessel routing and traffic management measures for the Strait of Juan de Fuca, Haro Strait, Boundary Pass, the Strait of Georgia, Rosario Strait, and adjacent waters. The study area also included both U.S. and Canadian TSSs and the Area to be Avoided (ATBA) "Off the Washington Coast". United States and Canadian Coast Guards manage portions of the study area jointly. Joint waterway management is accomplished primarily through the Cooperative Vessel Traffic System (CVTS). Under the CVTS Agreement, vessel traffic transiting the study area is managed by vessel traffic centers located at Tofino and Victoria, British Columbia, Canada, and Seattle, Washington, irrespective of the boundary between the two countries.

The PARS was developed based on several related vessel traffic studies, Waterways Analysis and Management System (WAMS) reports, and extensive consultations between the governments of the United States and Canada. In addition, the officials of both governments embarked on a vigorous outreach program to present recommended changes in the study area and request commentary from a wide group of waterway users and other potentially affected and interested

groups. These included members of the public, such as representatives of the shipping industry, master mariners, ports, pilots, environmental interests, and U.S. Federal, State, local, and tribal governments. The concerns raised were taken into account, including the costs and benefits to industry and the environment. The recommended changes also took into account the burden on, and the practical navigation aspects for, the shipping industry. We published the study results in the **Federal Register** on January 22, 2001 (66 FR 6514).

The PARS concluded that the current TSSs should be modified by—

1. Reconfiguring and extending seaward the TSS at the entrance to the Strait of Juan de Fuca;
2. Modifying the location, orientation, and dimensions of the Strait of Juan de Fuca TSS;
3. Relocating the Pilot Area and reconfiguring the traffic lanes and precautionary area off Port Angeles, Washington, to improve traffic flow and reduce risks;
4. Moving the vessel traffic lanes southeast of Victoria, British Columbia, farther off shore;
5. Establishing precautionary areas off of Discovery Island and around the Victoria Pilot Station;
6. Creating a new two-way route in Haro Strait and Boundary Pass and establishing a precautionary area off of Turn Point;
7. Expanding precautionary area "RB" at the south end of Rosario Strait;
8. Revising and aligning the existing TSS in Georgia Strait with the existing TSS north of Rosario Strait and linking them with a new precautionary area off of East Point; and
9. Creating a new precautionary area in Georgia Strait west of Delta Port and the Tsawwassen Ferry terminal.

#### Discussion of Proposed Rule

This rulemaking would amend the existing TSSs in the Strait of Juan de Fuca and its approaches; in Puget Sound and its approaches; and in Haro Strait, Boundary Pass, and the Strait of Georgia. The existing TSSs are delineated in "Ships Routeing," Seventh Edition 1999, International Maritime Organization, but not yet codified in the Code of Federal Regulations (CFR). The amendments are based on the recommendations of the PARS study published in the **Federal Register** on January 22, 2001 (66 FR 6514). We propose the following changes to the existing TSSs:

1. *Reconfiguring and extending seaward the TSS at the entrance to the Strait of Juan de Fuca.* All traffic

entering the Strait of Juan de Fuca is presently funneled into the Strait through one of two short traffic lanes. The inbound traffic lane originating from the southwest may bring traffic within 1 mile of Duntze Rock. This convergence near Buoy Juliet is close to the rocky shoreline of Cape Flattery, lies within the Olympic Coast National Marine Sanctuary, and funnels inbound southern traffic along the northern and western borders of an existing Area To Be Avoided (ATBA).

It is customary for a large percentage of the slower moving traffic, often tugs and barges and small fishing vessels, to transit inbound and outbound south of the designated traffic lanes when on coastwise voyages to and from the south. This practice eliminates the need for slower moving southbound traffic to cross the traffic lanes and the numerous overtaking situations arising from disparate transit speeds. However, under the present configuration, this traffic is forced to transit extremely close to Duntze Rock and may end up infringing on either the ATBA or the inbound traffic lane.

Traditional commercial and sports fishing areas are in and adjacent to the traffic lanes at the entrance to the Strait. Occasionally, fishing vessels in the area create a conflict for vessels following the TSS, particularly during periods of reduced visibility.

This rulemaking would extend the TSS at the entrance of the Strait of Juan de Fuca approximately 10 miles farther offshore and would center the separation zone on the international border at the entrance. Both of these actions would create a "buffer zone" between the southernmost TSS lane and Duntze Rock and the nearby ATBA. This relocation provides significant sea room for resolving conflicting routes as vessels converge toward the entrance of the Strait, thereby improving order and predictability for all entry and exit lanes. These changes, along with changes being proposed for the ATBA boundary, would allow sufficient room for slower moving vessels to transit without conflicting with inbound traffic steering for the southern approach to the TSS. It would also provide a greater margin of safety around the hazards of Duntze Rock and Tatoosh Island. Finally, it would create the space necessary to accommodate the recommended routes proposed to IMO.

In developing these proposed changes to the TSS, we considered the location of the traditional fishing grounds off the entrance to the Strait of Juan de Fuca. Although it was not possible to completely segregate the TSS from the fishing grounds, the recommended

changes would minimize potential conflicts and improve the existing configuration. These recommendations would provide routing order and predictability farther offshore, thereby reducing conflicts between vessels following the TSS and vessels fishing at the entrance to the Strait.

*2. Modifying the location, orientation, and dimensions of the existing TSS in the Strait of Juan de Fuca.* In its current configuration, over two-thirds of the TSS is located on the United States side of the International Boundary. The separation zone flares to a maximum width of approximately four nautical miles, of which three nautical miles are in U.S. waters. This alignment of the TSS reduces the amount of navigable water available to vessels transiting, outbound or inbound, south of the TSS and places inbound traffic following the lanes closer to land than vessels transiting in the outbound lanes.

In the western segment of the TSS, the proposed rule would shift the TSS a half-mile to the north and reduce the width of the entire separation zone to a maximum of 3 nautical miles. The minimum width of the separation zone and the width of the traffic lanes would remain one nautical mile. Doing so would reduce the potential for powered groundings on the U.S. shoreline by creating a larger buffer between the TSS and shore. It also would create additional space for the existing in-shore traffic that transits south of the TSS and would accommodate the recommended routes proposed to IMO.

We have considered the impact of the proposed changes on the existing Canadian Practice Firing Range (Exercise Area WH). Exercises will continue to be conducted in a manner not to conflict with commercial traffic following the TSS.

*3. Relocating the Pilot Area and reconfiguring the traffic lanes and precautionary area off Port Angeles to improve traffic flow and reduce risks.* Five TSSs converge at the precautionary areas ("PA" and "ND") located to the north and east of Port Angeles. Ferries, recreational vessels, piloted deep draft vessels, non-piloted deep draft vessels, tugs and tows, naval vessels, and large and small commercial fishing vessels all interact and compete for space at this convergence point in the traffic scheme. The present traffic configuration was designed primarily to deliver inbound vessels to the pilot stations located at Port Angeles and Victoria. The impact on vessel safety or other waterway users may have been overshadowed. For example, the present configuration does not separate the Port Angeles pilots boarding area from either the through

traffic following the TSS or the traffic choosing to follow the informal inshore traffic lanes. The current TSS routing leading to the Port Angeles pilot station has been identified through casualty histories as a substantial cause for concern. Vessels bound for the Port Angeles pilots station are required by the TSS to steer almost directly on Ediz Hook. To pick up a pilot, a vessel must first execute a 60-degree turn, then slow to varying speeds, which creates different impacts on steerage. At this point, a vessel may be particularly vulnerable to currents and seas. If an engineering failure occurred during this operation, the vessel would be at risk of a drift or powered grounding on Ediz Hook. By changing the traffic lane leading to the pilot station and by relocating the station itself, the need for an incoming deep draft vessel to steer directly toward shoal water as it approaches the pilot station would be eliminated. The addition of a new east/west TSS leading east from precautionary area "PA" establishes a predictable route for those vessels that do not require pilotage thus reducing the risk of collision with vessels that are maneuvering to pick up a pilot.

*4. Moving the vessel traffic lanes southeast of Victoria, British Columbia, farther off shore.* On the Canadian side of the international boundary, outbound tugs and barges exit the TSS at Discovery Island and head directly for the inshore routes south of Race Rocks, cutting across the inbound and outbound TSS lanes south of Victoria. Outbound fishing vessels exiting Baynes Channel or passing east of Discovery Island attempt to stay north of the TSS but often infringe upon the lanes near Trial Island, Discovery Island, and the pilot station. This behavior creates unnecessary and potentially dangerous interactions between deep draft vessels following the TSS and smaller vessels that choose to skirt the TSS or cut diagonally across the TSS.

The proposed change would create an inshore buffer by decreasing the width of the TSS leading from the Victoria Pilot Station to the turn south of Discovery Island while maintaining the same southern boundary on the inbound lane. This buffer zone would allow fishing vessels and other small, slow moving vessels to transit directly between Discovery Island and Race Rocks, then inshore north of the TSS, while avoiding the deep-draft TSS.

*5. Establishing precautionary areas off Discovery Island and around the Victoria Pilot Station.* The Victoria Pilot Station is at the convergence of two TSSs where there is significant traffic congestion as vessels transit to and from

the ports of Victoria and Esquimalt. Likewise, two TSSs converge off Discovery Island where vessels often enter or depart the traffic scheme. Both of these are areas where vessels should proceed with particular caution. The proposed rule addresses this by proposing to establish precautionary areas "V" and "HS."

6. *Creating a new two-way route in Haro Strait and Boundary Pass and establishing a precautionary area off Turn Point.* There are currently no formal traffic lanes in Haro Strait and Boundary Pass. In recent years, the level of recreational boating has significantly increased. There has also been an explosive growth in the number of small commercial vessels providing whale-watching tours off the western shore of San Juan Island. With this growth have come increased conflicts with deep draft vessels.

Turn Point is one of the more navigationally challenging areas of Haro Strait and Boundary Pass. Transiting vessels must negotiate a blind right-angle turn at varying distances from shore depending on their direction of travel and the presence of strong currents. In addition, numerous secondary channels and passages route traffic into Haro Strait in the vicinity of Turn Point.

This proposed rule would establish a two-way route in Haro Strait and Boundary Pass that connects into two existing TSSs to the south. This would increase order and predictability for vessel traffic in these waters. By establishing a formal traffic route, the provisions of Rule 10 of the COLREGS would apply. This would reduce dangerous interactions between the deep draft vessels following the TSS and smaller vessels that choose not to follow the TSS. The edge of the traffic lane would be moved to the east from Kellet Bluff to Turn Point and a flair or pull out would be created south of Turn Point to provide maneuvering room for a vessel to safely negotiate the strong ebb currents. A precautionary area around Turn Point is being proposed for this navigationally challenging area where vessels must negotiate a sight-obscured, right-angle turn in the presence of strong currents and numerous small craft.

7. *Expanding precautionary area "RB" at the south end of Rosario Strait.* Deep draft vessels often cannot precisely follow the existing TSS when approaching Rosario Strait from the south. Strong currents make it impossible for vessels to avoid the separation zone as they negotiate the slight turns in the TSS just south of precautionary area "RB". The small

turns in the TSS approaching precautionary area "RB" could not be eliminated without placing the TSS uncomfortably close to other shoal water.

This proposed rule would replace a small portion of the existing traffic lane with an expansion of precautionary area "RB". The safety of deep draft transits would be enhanced by eliminating a routing measure that large ships cannot comply with and replacing it with a precautionary area where ships must navigate with particular caution.

8. *Revising and aligning the existing TSS in Georgia Strait with the exiting TSS north of Rosario Strait and linking them with a new precautionary area off East Point.* There is presently no routing measure connecting the TSS that terminates off Patos Island with the TSS that terminates off Saturna Island. Furthermore, these two TSSs are not aligned. Traffic exiting the Strait of Georgia bound for Rosario Strait follows the TSS to its termination before angling back to the north to enter the TSS at Patos Island. Routing vessels in this manner crowds them and creates a possible conflict with traffic southbound for Boundary Pass. Finally there is no precautionary area in the vicinity of East Point, where traffic merges from several directions.

This proposed rule would create a seamless and logical traffic scheme for this area. Existing TSSs are aligned and connected to the new two-way route in Boundary Pass through the creation of a new precautionary area. By providing a contiguous TSS that connects the new Boundary Pass traffic lane with the existing or modified TSS in the Strait of Georgia and by establishing a contiguous TSS connecting the old Patos Island TSS and the Georgia Strait TSS, traffic bound for Rosario Strait could follow the TSS without impeding traffic southbound for Boundary Pass. The new precautionary area would highlight the need for potential crossing traffic in this area to exercise caution and would provide oil tankers departing Cherry Point bound for Haro Strait with a predictable and safe location to enter the traffic scheme.

9. *Creating a new precautionary area in Georgia Strait west of Delta Port and the Tsawwassen Ferry Terminal.* The recently completed container facility at Delta Port has significantly increased the volume of traffic entering and departing the TSS in the Strait of Georgia. There has also been a significant increase in traffic to and from the Tsawwassen Ferry Terminal. A new precautionary area southwest of Delta Port would accommodate vessels departing Delta Port and the

Tsawwassen Ferry Terminal as they get up to maneuvering speed before and while entering the TSS.

### Regulatory Evaluation

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. It is not "significant" under the regulatory policies and procedures of the Department of Transportation (DOT)(44 FR 11040, February 26, 1979). We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

### Costs

This proposed rule would result in a slight increase in transit time because the proposed rule would extend the TSS at the entrance of the Strait of Juan de Fuca approximately 10 miles farther offshore. The additional 10-mile transit coming to or from the Strait of Juan de Fuca through the southwestern approach could result in a minimal increase in cost to the industry.

There would be no anticipated costs for vessels traveling to, from, and within the Strait of Juan de Fuca and adjacent waterways to the north. Also, there would be no anticipated costs because of modifications, reconfigurations, and extensions of the TSSs in Puget Sound and its approaches, in Haro Strait, in Boundary Pass, and in the Strait of Georgia.

### Benefits

There would be no quantifiable benefits associated with codifying in the CFR the existing TSSs in the Strait of Juan de Fuca and its approaches, in Puget Sound and its approaches, and in Haro Strait, Boundary Pass, and the Strait of Georgia. There would be qualitative benefits as follows:

1. By routing traffic farther offshore, the TSS would reduce the risk of drift groundings and resulting pollution, property damage, and injuries.

2. The new exit lane north of Buoy J would reduce the risk of collision by reducing congestion and provide greater order and predictability for vessels transiting the area.

3. Shifting lanes in the Strait would reduce the risk of powered groundings.

4. Reconfiguring the traffic lanes and precautionary area off Port Angeles would reduce the risk of powered

groundings on Ediz Hook and the risk of collision at the Pilot Boarding Station.

5. Accommodating recreational-vessel routes would facilitate the separation of fast/slow and big/small traffic.

6. Creating a new two-way route in Haro Strait and Boundary Pass with a precautionary area off Turn Point would increase order and predictability. Interaction between deep draft and tug traffic with smaller vessels would be reduced, thus providing more maneuvering room for vessels.

7. Extending the precautionary area "RB" would reduce the risk of collision by eliminating a routing measure with which large ships cannot comply and would replace it with a precautionary area.

8. Providing a contiguous TSS connecting Boundary Pass traffic with the TSS in the Strait of Georgia would reduce the risk of collision due to the decreased conflict between traffic bound for Rosario Strait or Boundary Pass and would provide greater order for vessels merging from several directions from the vicinity of East Point.

#### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

We do not anticipate that this rulemaking would have a significant economic impact on a substantial number of small entities. Most vessels using the TSSs are commercial vessels of more than 300 gross tons. The largest concentration of possible small entities using the TSSs consists of oceangoing tug/barge operators and small to medium fishing vessels. Since recent studies indicate that most tug and barge combinations transit the coast approximately 15 to 25 miles offshore, the economic impact of this proposed rule on these vessels should be minimal. This rulemaking has been conducted with the goal of minimizing any impact on fisheries.

Some vessel owners and operators, whether or not they are small entities, may incur a minimal cost due to the proposed 10-mile increase in transit distance. This proposed rule would adjust existing TSSs, which would provide an increased level of safety for mariners using the TSS. In turn, this

would decrease the adverse economic effects on the region caused by casualties and pollution.

Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities. If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment 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.

#### Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please consult George Detweiler, Coast Guard, Marine Transportation Specialist, at 202–267–0574.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

#### Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this proposed rule under that Order and have determined that it does not have implications for federalism.

The Ports and Waterways Safety Act (PWSA) authorizes the Secretary of Transportation to issue regulations to designate TSSs to protect the marine environment. 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 in the Strait of Juan de Fuca and its approaches, in Puget Sound and its approaches, and in Haro Strait, Boundary Pass, and the Strait of Georgia, we have consulted with the affected State and Federal pilots' associations, vessel operators, users, United States and Canadian Vessel Traffic Services, Canadian Coast Guard and Transport Canada representatives, environmental advocacy groups, Native American tribal groups, and all affected stakeholders.

Presently, there are no Washington State laws or regulations concerning the same subjects as are contained in this proposed rule. We understand that the State does not contemplate issuing any such rules. However, it should be noted that, by virtue of the PWSA authority, the TSSs proposed in this rule would preempt any State rule on the same subject.

In order to apply to foreign-flag vessels on the high seas, TSSs must be submitted to, approved by, and implemented by the International Maritime Organization (IMO). The individual States of the United States are not represented at IMO; that is the role of the Federal government. The Coast Guard is the principal United States agency responsible for advancing the interests of the United States at IMO. We recognize the interest of all local stakeholders as we work at IMO to advance the goals of these TSSs. We will continue to work closely with the stakeholders in developing the final rule to ensure that the waters affected by this proposed rule are made safer and more environmentally secure.

#### Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### Taking of Private Property

This proposed rule would not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

### Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

### Protection of Children

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

### Indian Tribal Governments

Several Native American tribes traditionally fish in the Strait of Juan de Fuca. The existing TSS in the Strait provides a broad separation zone, which allows ample room for the tribes' traditional gill-net fishery between the inbound and outbound vessel traffic lanes. The tribes also fish in the waters south of the inbound lane, between that lane and the northern shore of the Olympic Peninsula.

When the PARS study was completed, it recommended that the broad separation zone be narrowed and aligned with the international border, a proposal that would straighten the routes for vessels transiting the TSS and move them farther north of Olympic Peninsula. Local tribal representatives objected to this recommendation because they believed it would significantly decrease the area available to fish, by leaving insufficient room to deploy their nets without interfering with, or being interfered by, deep-draft vessels transiting the Strait. To address their concerns, we met with these tribal nations in March and August of 2000 and February of 2001. The meetings were intended to gather their recommendations on how to improve the TSS, yet minimize the impact on their drift-net fishery. Following these meetings, the tribal nations submitted recommendations to widen the separation zone. Based on these submittals and the discussion at the meetings, we reassessed the PARS recommendation and widened the proposed zone enough to support their drift-net fishery.

We do not foresee that this proposed rule would compel the tribes to significantly alter their current fishery. Furthermore, it would provide some benefits by increasing the area available for fishing south of the inbound traffic lane. We do not anticipate any

additional economic cost to the tribes as a result of the proposed alteration to the separation zone. This alteration reflects a consideration of the needs of the tribal nations' drift-net fishery, balanced with the need to provide for safer transit routes farther from the Olympic Peninsula.

We have reviewed this proposed 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.*, 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 proposed rule would not have implications of the kind envisioned under the Order, because it would 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 Coast Guard to seek out and consult with Native Americans on all of its rulemakings that may affect them. We have published a separate notice in the **Federal Register** (66 FR 36361, July 11, 2001) to help the Coast Guard establish regular and meaningful consultation and collaboration with Indian and Alaskan Native tribes on how to best carry out the Order. With regard to this proposed rule, we invite your comments on how it might impact tribal governments, even if that impact may not constitute a "tribal implication" under the Order.

### Environmental Justice

We have analyzed this proposed rule under Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations. We have determined that this proposed rule would not result in disproportionately high and adverse human health or environmental effects on minority populations and low-income populations, including Native American tribal nations.

### Energy Effects

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant

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

### Environment

We have considered the environmental impact of this proposed rule and concluded that, under figure 2-1, paragraph (34)(i), of Commandant Instruction M16475.ID, this rule is categorically excluded from further environmental documentation. This rulemaking concerns navigational aids, which include TSSs. A "Categorical Exclusion Determination" is available in the docket where indicated under

### ADDRESSES.

### List of Subjects in 33 CFR part 167

Harbors, Marine safety, Navigation (water), and Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 167 as follows:

### PART 167—OFFSHORE TRAFFIC SEPARATION SCHEMES

1. The authority citation for part 167 continues to read as follows:

**Authority:** 33 U.S.C. 1223; 49 CFR 1.46.

2. Add §§ 167.1300 through 167.1303 to read as follows:

#### § 167.1300 In the approaches to the Strait of Juan de Fuca: General.

The traffic separation scheme for the approaches to the Strait of Juan de Fuca consists of three parts: the western approach, the southwestern approach, and precautionary area "JF". These parts are described in §§ 167.1301 through 167.1303. The geographic coordinates in §§ 167.1301 through 167.1303 are defined using North American Datum (NAD 83).

#### § 167.1301 In the approaches to the Strait of Juan de Fuca: Western approach.

In the western approach to the Strait of Juan de Fuca, the following are established:

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

Latitude	Longitude
48°30.10'N	125°09.00'W
48°30.10'N	125°04.67'W
48°29.11'N	125°04.67'W
48°29.11'N	125°09.00'W

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

<i>Latitude</i>	<i>Longitude</i>
48°31.09'N	125°04.67'W
48°31.93'N	125°09.00'W

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

<i>Latitude</i>	<i>Longitude</i>
48°27.31'N	125°09.00'W
48°28.13'N	125°04.67'W

**§ 167.1302 In the approaches to the Strait of Juan de Fuca: Southwestern approach.**

In the southwestern approach to the Strait of Juan de Fuca, the following are established:

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

<i>Latitude</i>	<i>Longitude</i>
48°23.99'N	125°06.54'W
48°27.63'N	125°03.38'W
48°27.14'N	125°02.08'W
48°23.50'N	125°05.26'W

(b) A traffic lane for north-eastbound traffic between the separation zone and a line connecting the following geographical positions:

<i>Latitude</i>	<i>Longitude</i>
48°22.55'N	125°02.80'W
48°26.64'N	125°00.81'W

(c) A traffic lane for south-westbound traffic between the separation zone and a line connecting the following geographical positions:

<i>Latitude</i>	<i>Longitude</i>
48°28.13'N	125°04.67'W
48°24.94'N	125°09.00'W

**§ 167.1303 In the approaches to the Strait of Juan de Fuca: Precautionary area "JF".**

In the approaches to the Strait of Juan de Fuca, precautionary area "JF" is established and is bounded by a line connecting the following geographical positions:

<i>Latitude</i>	<i>Longitude</i>
48°31.09'N	125°04.67'W
48°30.10'N	125°04.67'W
48°29.11'N	125°04.67'W
48°28.13'N	125°04.67'W
48°27.63'N	125°03.38'W
48°27.14'N	125°02.08'W
48°26.64'N	125°00.81'W
48°28.13'N	125°57.90'W
48°29.11'N	125°00.00'W

<i>Latitude</i>	<i>Longitude</i>
48°30.10'N	125°00.00'W
48°31.09'N	125°00.00'W
48°31.09'N	125°04.67'W

3. Add §§ 167.1310 through 167.1315 to read as follows:

**§ 167.1310 In the Strait of Juan de Fuca: General.**

The traffic separation scheme in the Strait of Juan de Fuca consists of five parts: The western lanes, southern lanes, northern lanes, eastern lanes, and precautionary area "PA". These parts are described in §§ 167.1311 through 167.1315. The geographic coordinates in §§ 167.1311 through 167.1315 are defined using North American Datum (NAD 83).

**§ 167.1311 In the Strait of Juan de Fuca: Western lanes.**

In the western lanes of the Strait of Juan de Fuca, the following are established:

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

<i>Latitude</i>	<i>Longitude</i>
48°29.11'N	125°00.00'W
48°29.11'N	124°43.78'W
48°13.89'N	123°54.84'W
48°13.89'N	123°31.98'W
48°14.49'N	123°31.98'W
48°17.02'N	123°56.46'W
48°30.10'N	124°43.50'W
48°30.10'N	125°00.00'W

(b)(1) A traffic lane for north-westbound traffic between the separation zone and a line connecting the following geographical positions:

<i>Latitude</i>	<i>Longitude</i>
48°16.45'N	123°30.42'W
48°15.97'N	123°33.54'W
48°18.00'N	123°56.07'W
48°32.00'N	124°46.57'W
48°31.09'N	124°47.13'W
48°31.09'N	125°00.00'W

(2) An exit from this lane between points 48°32.00'N, 124°46.57'W and 48°31.09'N, 124°47.13'W. Vessel traffic may exit this lane at this location or may remain in the lane between points 48°31.09'N, 124°47.13'W and 48°31.09'N, 125°00.00'W en route to precautionary area "JF", as described in § 167.1315.

(c) A traffic lane for south-eastbound traffic between the separation zone and a line connecting the following geographical positions:

<i>Latitude</i>	<i>Longitude</i>
48°28.13'N	124°57.90'W
48°28.13'N	124°44.07'W

<i>Latitude</i>	<i>Longitude</i>
48°12.90'N	123°55.24'W
48°12.94'N	123°32.89'W

**§ 167.1312 In the Strait of Juan de Fuca: Southern lanes.**

In the southern lanes of the Strait of Juan de Fuca, the following are established:

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

<i>Latitude</i>	<i>Longitude</i>
48°10.82'N	123°25.44'W
48°12.38'N	123°28.68'W
48°12.90'N	123°28.68'W
48°12.84'N	123°27.46'W
48°10.99'N	123°24.84'W

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

<i>Latitude</i>	<i>Longitude</i>
48°11.24'N	123°23.82'W
48°12.72'N	123°25.34'W

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

<i>Latitude</i>	<i>Longitude</i>
48°12.94'N	123°32.89'W
48°09.42'N	123°24.24'W

**§ 167.1313 In the Strait of Juan de Fuca: Northern lanes.**

In the northern lanes of the Strait of Juan de Fuca, the following are established:

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

<i>Latitude</i>	<i>Longitude</i>
48°21.15'N	123°24.83'W
48°16.16'N	123°28.50'W
48°15.77'N	123°27.18'W
48°20.93'N	123°24.26'W

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

<i>Latitude</i>	<i>Longitude</i>
48°21.83'N	123°25.56'W
48°16.45'N	123°30.42'W

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

<i>Latitude</i>	<i>Longitude</i>
48°20.93'N	123°23.22'W

*Latitude*                      *Longitude*  
48°15.13'N                      123°25.62'W

**§ 167.1314 In the Strait of Juan de Fuca: Eastern lanes.**

In the eastern lanes of the Strait of Juan de Fuca, the following are established:

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

<i>Latitude</i>	<i>Longitude</i>
48°13.22'N	123°15.91'W
48°14.03'N	123°25.98'W
48°13.54'N	123°25.86'W
48°12.89'N	123°16.69'W

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

<i>Latitude</i>	<i>Longitude</i>
48°14.27'N	123°13.41'W
48°14.05'N	123°16.08'W
48°15.13'N	123°25.62'W

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

<i>Latitude</i>	<i>Longitude</i>
48°12.72'N	123°25.34'W
48°12.34'N	123°18.01'W

**§ 167.1315 In the Strait of Juan de Fuca: Precautionary area "PA".**

In the Strait of Juan de Fuca, precautionary area "PA" is established and is bounded by a line connecting the following geographical positions:

<i>Latitude</i>	<i>Longitude</i>
48°12.94'N	123°32.89'W
48°13.89'N	123°31.98'W
48°14.49'N	123°31.98'W
48°16.45'N	123°30.42'W
48°16.16'N	123°28.50'W
48°15.77'N	123°27.18'W
48°15.13'N	123°25.62'W
48°14.03'N	123°25.98'W
48°13.54'N	123°25.86'W
48°12.72'N	123°25.34'W
48°12.84'N	123°27.46'W
48°12.90'N	123°28.68'W
48°12.94'N	123°32.89'W

4. Add §§ 167.1320 through 167.1323 to read as follows:

**§ 167.1320 In Puget Sound and its approaches: General.**

The traffic separation scheme in Puget Sound and its approaches consists of three parts: Rosario Strait, approaches to Puget Sound other than Rosario Strait, and Puget Sound. These parts are described in §§ 167.1321 through

167.1323. The geographic coordinates in §§ 167.1321 through 167.1323 are defined using North American Datum (NAD 83).

**§ 167.1321 In Puget Sound and its approaches: Rosario Strait.**

In Rosario Strait, the following are established:

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

<i>Latitude</i>	<i>Longitude</i>
48°48.98'N	122°55.20'W
48°46.76'N	122°50.43'W
48°45.56'N	122°48.36'W
48°45.97'N	122°48.12'W
48°46.39'N	122°50.76'W
48°48.73'N	122°55.68'W

(b) A traffic lane for northbound traffic located between the separation zone described in paragraph (a) of this section and a line connecting the following geographical positions:

<i>Latitude</i>	<i>Longitude</i>
48°49.49'N	122°54.24'W
48°47.14'N	122°50.10'W
48°46.35'N	122°47.50'W

(c) A traffic lane for southbound traffic located between the separation zone described in paragraph (a) of this section and a line connecting the following geographical positions:

<i>Latitude</i>	<i>Longitude</i>
48°44.95'N	122°48.28'W
48°46.76'N	122°53.10'W
48°47.93'N	122°57.12'W

(d) Precautionary area "CA" contained within a circle of radius 1.24 miles centered at geographical position 48°45.30'N, 122°46.50'W.

(e) A separation zone bounded by a line connecting the following geographical positions:

<i>Latitude</i>	<i>Longitude</i>
48°44.27'N	122°45.53'W
48°41.72'N	122°43.50'W
48°41.60'N	122°43.82'W
48°44.17'N	122°45.87'W

(f) A traffic lane for northbound traffic located between the separation zone described in paragraph (e) of this section and a line connecting the following geographical positions:

<i>Latitude</i>	<i>Longitude</i>
48°44.62'N	122°44.96'W
48°41.80'N	122°42.70'W

(g) A traffic lane for southbound traffic located between the separation zone described in paragraph (e) of this

section and a line connecting the following geographical positions:

<i>Latitude</i>	<i>Longitude</i>
48°44.08'N	122°46.65'W
48°41.25'N	122°44.37'W

(h) Precautionary area "C" contained within a circle of radius 1.24 miles centered at geographical position 48°40.55'N, 122°42.80'W.

(i) A two-way route between the following geographical positions:

<i>Latitude</i>	<i>Longitude</i>
48°39.33'N	122°42.73'W
48°36.08'N	122°45.00'W
48°26.82'N	122°43.53'W
48°27.62'N	122°45.53'W
48°29.48'N	122°44.77'W
48°36.13'N	122°45.80'W
48°38.38'N	122°44.20'W
48°39.63'N	122°44.03'W

(j) Precautionary area "RB" bounded as follows:

(1) To the north by the arc of a circle of radius 1.24 miles centered on geographical position 48°26.38'N, 122°45.27'W and connecting the following geographical positions:

<i>Latitude</i>	<i>Longitude</i>
48°25.97'N	122°47.03'W
48°25.55'N	122°43.93'W

(2) To the south by a line connecting the following geographical positions:

<i>Latitude</i>	<i>Longitude</i>
48°25.97'N	122°47.03'W
48°24.62'N	122°48.68'W
48°23.75'N	122°47.47'W
48°25.20'N	122°45.73'W
48°25.17'N	122°45.62'W
48°24.15'N	122°45.27'W
48°24.08'N	122°43.38'W
48°25.55'N	122°43.93'W

**§ 167.1322 In Puget Sound and its approaches: Approaches to Puget Sound other than Rosario Strait.**

(a) The traffic separation scheme in the approaches to Puget Sound other than Rosario Strait consists of a northeast/southwest approach, a northwest/southeast approach, a north/south approach, and an east/west approach and connecting precautionary areas.

(b) In the northeast/southwest approach consisting of two separation zones, two precautionary areas ("RA" and "ND"), and four traffic lanes, the following are established:

(1) A separation zone that connects with precautionary area "RA", as described in paragraph (b)(2) of this section, and is bounded by a line connecting the following geographical positions:



<i>Latitude</i>	<i>Longitude</i>
48°24.13'N	122°47.97'W
48°20.32'N	122°57.02'W
48°20.53'N	122°57.22'W
48°24.32'N	122°48.22'W

(2) Precautionary area "RA", which is contained within a circle of radius 1.24 miles centered at 48°19.77'N, 122°58.57'W.

(3) A separation zone that connects with precautionary area "RA", as described in paragraph (b)(2) of this section, and is bounded by a line connecting the following geographical positions:

<i>Latitude</i>	<i>Longitude</i>
48°16.25'N	123°06.58'W
48°16.57'N	123°06.58'W
48°19.20'N	123°00.35'W
48°19.00'N	123°00.17'W

(4) A traffic lane for northbound traffic that connects with precautionary area "RA", as described in paragraph (b)(2) of this section, and is located between the separation zone described in paragraph (b)(1) of this section and a line connecting the following geographical positions:

<i>Latitude</i>	<i>Longitude</i>
48°23.75'N	122°47.47'W
48°19.80'N	122°56.83'W

(5) A traffic lane for northbound traffic that connects with precautionary area "RA", as described in paragraph (b)(2) of this section, and is located between the separation zone described in paragraph (b)(3) of this section and a line connecting the following geographical positions:

<i>Latitude</i>	<i>Longitude</i>
48°15.70'N	123°06.58'W
48°18.67'N	122°59.57'W

(6) A traffic lane for southbound traffic that connects with precautionary area "RA", as described in paragraph (b)(2) of this section, and is located between the separation zone described in paragraph (b)(1) of this section and a line connecting the following geographical positions:

<i>Latitude</i>	<i>Longitude</i>
48°24.62'N	122°48.68'W
48°20.85'N	122°57.80'W

(7) A traffic lane for southbound traffic that connects with precautionary area "RA", as described in paragraphs (b)(2) of this section, and is located between the separation zone described in paragraph (b)(3) of this section and a line connecting the following geographical positions:

<i>Latitude</i>	<i>Longitude</i>
48°19.70'N	123°00.53'W
48°17.15'N	123°06.57'W

(8) Precautionary area "ND", which is bounded by a line connecting the following geographical positions:

<i>Latitude</i>	<i>Longitude</i>
48°11.00'N	123°06.58'W
48°17.15'N	123°06.57'W
48°14.27'N	123°13.41'W
48°12.34'N	123°18.01'W
48°12.72'N	123°25.34'W
48°11.24'N	123°23.82'W
48°10.82'N	123°25.44'W
48°09.42'N	123°24.24'W
48°08.39'N	123°24.24'W
48°11.00'N	123°06.58'W

(c) In the northwest/southeast approach consisting of two separation zones, two precautionary areas ("RA" and "SA"), and four traffic lanes, the following are established:

(1) A separation zone that connects with precautionary area "RA", as described in paragraph (b)(2) of this section, and is bounded by a line connecting the following geographical positions:

<i>Latitude</i>	<i>Longitude</i>
48°27.79'N	123°07.80'W
48°25.43'N	123°03.88'W
48°22.88'N	123°00.82'W
48°20.93'N	122°59.30'W
48°20.82'N	122°59.62'W
48°22.72'N	123°01.12'W
48°25.32'N	123°04.30'W
48°27.58'N	123°08.10'W

(2) A separation zone that connects with precautionary area "RA", as described in paragraph (b)(2) of this section, and is bounded by a line connecting the following geographical positions:

<i>Latitude</i>	<i>Longitude</i>
48°18.83'N	122°57.48'W
48°13.15'N	122°51.33'W
48°13.00'N	122°51.62'W
48°18.70'N	122°57.77'W

(3) A traffic lane for northbound traffic that connects with precautionary "RA", as described in paragraph (b)(2) of this section, and is located between the separation zone described in paragraph (c)(1) of this section and a line connecting the following geographical positions:

<i>Latitude</i>	<i>Longitude</i>
48°28.15'N	123°07.31'W
48°25.60'N	123°03.13'W
48°23.20'N	123°00.20'W
48°21.00'N	122°58.50'W

(4) A traffic lane for northbound traffic that connects with precautionary area "RA", as described in paragraphs (b)(2) of this section, and is located between the separation zone described in paragraph (c)(2) of this section and a line connecting the following geographical positions:

<i>Latitude</i>	<i>Longitude</i>
48°19.20'N	122°57.03'W
48°13.35'N	122°50.63'W

(5) A traffic lane for southbound traffic that connects with precautionary "RA", as described in paragraph (b)(2) of this section, and is located between the separation zone described in paragraph (c)(1) of this section and a line connecting the following geographical positions:

<i>Latitude</i>	<i>Longitude</i>
48°27.43'N	123°08.94'W
48°25.17'N	123°04.98'W
48°22.48'N	123°01.73'W
48°20.47'N	123°00.20'W

(6) A traffic lane for southbound traffic connecting with precautionary area "RA", as described in paragraphs (b)(2) of this section, and is located between the separation zone described in paragraph (c)(2) of this section and a line connecting the following geographical positions:

<i>Latitude</i>	<i>Longitude</i>
48°18.52'N	122°58.50'W
48°12.63'N	122°52.15'W

(7) Precautionary area "SA", which is contained within a circle of radius 2 miles centered at geographical position 48°11.45'N, 122°49.78'W.

(d) In the north/south approach between precautionary areas "RB" and "SA", as described in paragraphs (b)(2) and (c)(7) of this section, respectively, the following are established:

(1) A separation zone bounded by a line connecting the following geographical positions:

<i>Latitude</i>	<i>Longitude</i>
48°24.15'N	122°44.08'W
48°13.33'N	122°48.78'W
48°13.38'N	122°49.15'W
48°24.17'N	122°44.48'W

(2) A traffic lane for northbound traffic located between the separation zone described in paragraph (d)(1) of this section and a line connecting the following geographical positions:

<i>Latitude</i>	<i>Longitude</i>
48°24.08'N	122°43.38'W
48°13.10'N	122°48.12'W

(3) A traffic lane for southbound traffic located between the separation zone described in paragraph (d)(1) of this section and a line connecting the following geographical positions:

<i>Latitude</i>	<i>Longitude</i>
48°24.15'N	122°45.27'W
48°13.43'N	122°49.90'W

(e) In the east/west approach between precautionary areas "ND" and "SA", as described in paragraphs (b)(8) and (c)(7) of this section, respectively, the following are established:

(1) A separation zone bounded by a line connecting the following geographical positions:

<i>Latitude</i>	<i>Longitude</i>
48°11.50'N	122°52.73'W
48°11.73'N	122°52.70'W
48°12.48'N	123°06.58'W
48°12.23'N	123°06.58'W

(2) A traffic lane for northbound traffic between the separation zone described in paragraph (e)(1) of this section and a line connecting the following geographical positions:

<i>Latitude</i>	<i>Longitude</i>
48°12.22'N	122°52.52'W
48°12.98'N	123°06.58'W

(3) A traffic lane for southbound traffic between the separation zone described in paragraph (e)(1) of this section and a line connecting the following geographical positions:

<i>Latitude</i>	<i>Longitude</i>
48°11.73'N	123°06.58'W
48°10.98'N	122°52.65'W

**§ 167.1323 In Puget Sound and its approaches: Puget Sound.**

The traffic separation scheme in Puget Sound consists of six separation zones and two traffic lanes connected by six precautionary areas. The following are established:

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

<i>Latitude</i>	<i>Longitude</i>
48°11.08'N	122°46.88'W
48°06.85'N	122°39.52'W
48°02.48'N	122°38.17'W
48°02.43'N	122°38.52'W
48°06.72'N	122°39.83'W
48°10.82'N	122°46.98'W

(b) Precautionary area "SC", which is contained within a circle of radius 0.62 miles centered at 48°01.85'N, 122°38.15'W.

(c) A separation zone bounded by a line connecting the following geographical positions:

<i>Latitude</i>	<i>Longitude</i>
48°01.40'N	122°37.57'W
47°57.95'N	122°34.67'W
47°55.85'N	122°30.22'W
47°55.67'N	122°30.40'W
47°57.78'N	122°34.92'W
48°01.28'N	122°37.87'W

(d) Precautionary area "SE", which is contained within a circle of radius 0.62 miles centered at 47°55.40'N, 122°29.55'W.

(e) A separation zone bounded by a line connecting the following geographical positions:

<i>Latitude</i>	<i>Longitude</i>
47°54.85'N	122°29.18'W
47°46.52'N	122°26.30'W
47°46.47'N	122°26.62'W
47°54.80'N	122°29.53'W

(f) Precautionary area "SF", which is contained within a circle of radius 0.62 miles centered at 47°45.90'N, 122°26.25'W.

(g) A separation zone bounded by a line connecting the following geographical positions:

<i>Latitude</i>	<i>Longitude</i>
47°45.20'N	122°26.25'W
47°40.27'N	122°27.55'W
47°40.30'N	122°27.88'W
47°45.33'N	122°26.60'W

(h) Precautionary area "SG", the which is contained within a circle of radius 0.62 miles centered at 47°39.68'N, 122°27.87'W.

(i) A separation zone bounded by a line connecting the following geographical positions:

<i>Latitude</i>	<i>Longitude</i>
47°39.12'N	122°27.62'W
47°35.18'N	122°27.08'W
47°35.17'N	122°27.35'W
47°39.08'N	122°27.97'W

(j) Precautionary area "T", which is contained within a circle of radius 0.62 miles centered at 47°34.55'N, 122°27.07'W.

(k) A separation zone bounded by a line connecting the following geographical positions:

<i>Latitude</i>	<i>Longitude</i>
47°34.02'N	122°26.70'W
47°26.92'N	122°24.10'W
47°23.07'N	122°20.98'W
47°19.78'N	122°26.58'W
47°19.98'N	122°26.83'W
47°23.15'N	122°21.45'W
47°26.85'N	122°24.45'W

*Latitude* *Longitude*

47°33.95'N 122°27.03'W

(l) Precautionary area "TC", which is contained within a circle of radius 0.62 miles centered at 47°19.48'N, 122°27.38'W.

(m) A traffic lane for northbound traffic that connects with precautionary areas "SC", "SE", "SF", "SG", "T", and "TC", as described in paragraphs (b), (d), (f), (h), (j), and (k) of this section, respectively, and is located between the separation zones described in paragraphs (a), (c), (e), (g), (i), and (k) of this section, respectively, and a line connecting the following geographical positions:

<i>Latitude</i>	<i>Longitude</i>
48°11.72'N	122°46.83'W
48°07.13'N	122°38.83'W
48°02.10'N	122°37.32'W
47°58.23'N	122°34.07'W
47°55.83'N	122°28.80'W
47°45.92'N	122°25.33'W
47°39.68'N	122°26.95'W
47°34.65'N	122°26.18'W
47°27.13'N	122°23.40'W
47°23.33'N	122°20.37'W
47°22.67'N	122°20.53'W
47°19.07'N	122°26.75'W

(n) A traffic lane for southbound traffic that connects with precautionary areas "SC", "SE", "SF", "SG", "T", and "TC", as described in paragraphs (b), (d), (f), (h), (j), and (k) of this section, respectively, and is located between the separation zones described in paragraphs (a), (c), (e), (g), (i), and (k) of this section, respectively, and a line connecting the following geographical positions:

<i>Latitude</i>	<i>Longitude</i>
48°10.15'N	122°47.58'W
48°09.35'N	122°45.55'W
48°06.45'N	122°40.52'W
48°01.65'N	122°30.03'W
47°57.47'N	122°35.45'W
47°55.07'N	122°30.35'W
47°45.90'N	122°27.18'W
47°39.70'N	122°28.78'W
47°34.47'N	122°27.98'W
47°26.63'N	122°25.12'W
47°23.25'N	122°22.42'W
47°20.00'N	122°27.90'W

5. Add §§ 167.1330 through 167.1332 to read as follows:

**§ 167.1330 In Haro Strait, Boundary Pass, and the Strait of Georgia: General.**

The traffic separation scheme in Haro Strait, Boundary Pass, and the Strait of Georgia consists of a series of traffic separation schemes, two-way routes, and five precautionary areas. These parts are described in §§ 167.1331 and 167.1332. The geographic coordinates in

§§ 167.1331 through 167.1332 are defined using North American Datum (NAD 83).

**§ 167.1331 In Haro Strait and Boundary Pass.**

In Haro Strait and Boundary Pass, the following are established:

(a) Precautionary area "V", which is bounded by a line connecting the following geographical positions:

Latitude	Longitude
48°21.83'N	123°25.56'W
48°21.13'N	123°24.84'W
48°20.95'N	123°24.24'W
48°20.93'N	123°23.22'W
48°21.67'N	123°21.12'W
48°22.12'N	123°21.12'W
48°22.37'N	123°21.12'W
48°22.85'N	123°21.24'W
48°23.71'N	123°23.88'W
48°21.83'N	123°25.56'W

(b) A separation zone that connects with precautionary area "V", as described in paragraph (a) of this section and is bounded by a line connecting the following geographical positions:

Latitude	Longitude
48°22.37'N	123°21.12'W
48°22.39'N	123°18.36'W
48°23.90'N	123°12.78'W
48°23.63'N	123°12.78'W
48°22.15'N	123°18.30'W
48°22.12'N	123°21.12'W

(c) A traffic lane for eastbound traffic located between the separation zone described in paragraph (b) of this section and a line connecting the following geographical positions:

Latitude	Longitude
48°21.67'N	123°21.12'W
48°21.73'N	123°18.36'W
48°23.84'N	123°10.08'W

(d) A traffic lane for westbound traffic located between the separation zone described in paragraph (b) of this section and a line connecting the following geographical positions:

Latitude	Longitude
48°22.85'N	123°21.24'W
48°22.87'N	123°18.42'W
48°24.28'N	123°13.02'W
48°24.78'N	123°12.42'W

(e) A separation zone bounded by a line connecting the following geographical positions:

Latitude	Longitude
48°24.72'N	123°11.40'W
48°28.81'N	123°11.46'W
48°28.37'N	123°10.68'W
48°27.17'N	123°10.26'W

*Latitude* *Longitude*

48°24.95'N 123°10.68'W

(f) A traffic lane for northbound traffic located between the separation zone described in paragraph (e) of this section and a line connecting the following geographical positions:

Latitude	Longitude
48°23.84'N	123°10.08'W
48°27.43'N	123°08.94'W

(g) A traffic lane for southbound traffic located between the separation zone described in paragraph (e) of this section and a line connecting the following geographical positions:

Latitude	Longitude
48°28.79'N	123°12.77'W
48°24.78'N	123°12.42'W

(h) Precautionary area "HS", which is bounded by a line connecting the following geographical positions:

Latitude	Longitude
48°28.79'N	123°12.77'W
48°31.73'N	123°13.02'W
48°31.03'N	123°11.22'W
48°29.45'N	123°09.42'W
48°28.15'N	123°07.31'W
48°27.79'N	123°07.80'W
48°27.58'N	123°08.10'W
48°27.43'N	123°08.94'W
48°28.37'N	123°10.68'W
48°28.81'N	123°11.46'W
48°28.79'N	123°12.77'W

(i) A two-way route between the following geographical positions:

Latitude	Longitude
48°31.03'N	123°11.22'W
48°35.18'N	123°12.78'W
48°38.37'N	123°12.36'W
48°39.20'N	123°13.09'W
48°39.41'N	123°16.06'W
48°31.73'N	123°13.02'W

(j) Precautionary area "TP", bounded as follows:

(1) To the north by the arc of a circle of radius 2.1 miles centered at geographical position 48°41.3'N, 123°14.2'W (Turn Point Light) and connecting the following positions:

Latitude	Longitude
48°43.04'N	123°16.06'W
48°43.15'N	123°12.75'W
48°42.23'N	123°11.35'W
48°40.93'N	123°11.01'W

(2) To the south by the arc of a circle of radius 2.1 miles centered at geographical position 48°41.3'N, 123°14.2'W (Turn Point Light) and connecting the following points:

*Latitude* *Longitude*

48°39.76'N 123°11.84'W

48°39.20'N 123°13.09'W

48°39.41'N 123°16.06'W

(3) To the west by a direct line connecting the following points:

Latitude	Longitude
48°39.41'N	123°16.06'W
48°43.04'N	123°16.06'W

(k) A two-way route between the following geographical positions:

Latitude	Longitude
48°43.15'N	123°12.75'W
48°46.43'N	123°03.12'W
48°48.19'N	123°00.84'W
48°47.78'N	122°59.12'W
48°45.51'N	123°01.82'W
48°42.23'N	123°11.35'W

**§ 167.1332 In the Strait of Georgia.**

In the Strait of Georgia, the following are established:

(a) Precautionary area "GS", which is bounded by a line connecting the following geographical positions:

Latitude	Longitude
48°52.30'N	123°07.44'W
48°54.81'N	123°03.66'W
48°49.49'N	122°54.24'W
48°47.93'N	122°57.12'W
48°47.78'N	122°59.12'W
48°48.19'N	123°00.84'W
48°52.30'N	123°07.44'W

(b) A separation zone bounded by a line connecting the following geographical positions:

Latitude	Longitude
48°53.89'N	123°05.04'W
48°56.82'N	123°10.08'W
48°56.30'N	123°10.80'W
48°53.39'N	123°05.70'W

(c) A traffic lane for north-westbound traffic located between the separation zone described in paragraph (b) of this section and a line connecting the following geographical positions:

Latitude	Longitude
48°54.81'N	123°03.66'W
48°57.68'N	123°08.76'W

(d) A traffic lane for south-eastbound traffic between the separation zone described in paragraph (b) of this section and a line connecting the following geographical positions:

Latitude	Longitude
48°55.34'N	123°12.30'W
48°52.30'N	123°07.44'W

(e) Precautionary area "PR", which is bounded by a line connecting the following geographical positions:

Latitude	Longitude
48°55.34'N	123°12.30'W
48°57.68'N	123°08.76'W
49°00.37'N	123°13.32'W
48°58.18'N	123°16.74'W

(f) A separation zone bounded by a line connecting the following geographical positions:

Latitude	Longitude
48°59.53'N	123°14.66'W
49°03.80'N	123°21.24'W
49°03.14'N	123°22.26'W
48°58.90'N	123°15.63'W

(g) A traffic lane for north-westbound traffic located between the separation zone described in paragraph (f) of this section and a line connecting the following geographical positions:

Latitude	Longitude
49°00.37'N	123°13.32'W
49°04.52'N	123°20.04'W

(h) A traffic lane for south-eastbound traffic between the separation zone described in paragraph (f) of this section and a line connecting the following geographical positions:

Latitude	Longitude
49°02.51'N	123°23.76'W
48°58.18'N	123°16.74'W

Dated: July 5, 2002

**Paul J. Pluta,**

*Rear Admiral, U.S. Coast Guard, Assistant Commandant for Marine Safety, Security and Environmental Protection.*

[FR Doc. 02-21785 Filed 8-26-02; 8:45 am]

**BILLING CODE 4910-15-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[AZ 112-0052b; FRL-7261-8]

#### Revision to the Arizona State Implementation Plan, Maricopa County Environmental Services Department

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve a revision to the Maricopa County Environmental Services Department (MCESD) portion of the Arizona State Implementation Plan (SIP). Under authority of the Clean Air Act as

amended in 1990 (CAA or the Act), we are proposing to approve a local rule that regulates excess emissions from malfunctions, startups, and shutdowns.

**DATE:** Any comments on this proposal must arrive by September 26, 2002.

**ADDRESSES:** Mail comments to Gerardo Rios, Permits Office Chief (AIR-3), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

You can inspect a copy of the submitted SIP revision and EPA's technical support document (TSD) at our Region IX office during normal business hours. You may also see a copy of the submitted SIP revision at the following locations:

Environmental Protection Agency, Air Docket (6102), Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington DC 20460.

Arizona Department of Environmental Quality, 1110 West Washington Street, Phoenix, AZ 85007.

Maricopa County Environmental Services Department, Air Quality Division, 1001 North Central Avenue, Suite 201, Phoenix, AZ 85004.

**FOR FURTHER INFORMATION CONTACT:** Al Petersen, Rulemaking Office (AIR-4), U.S. Environmental Protection Agency, Region IX; (415) 947-4118.

**SUPPLEMENTARY INFORMATION:** This proposal addresses the approval of local MCESD Rule 140. In the Rules section of this **Federal Register**, we are approving this local rule in a direct final action without prior proposal because we believe this SIP revision is not controversial. If we receive adverse comments, however, we will publish a timely withdrawal of the direct final rule and address the comments in subsequent action based on this proposed rule. We do not plan to open a second comment period, so anyone interested in commenting should do so at this time. If we do not receive adverse comments, no further activity is planned. For further information, please see the direct final action.

Dated: July 25, 2002.

**Keith Takata,**

*Acting Regional Administrator, Region IX.*

[FR Doc. 02-21664 Filed 8-26-02; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[MO 160-1160; FRL-7267-5]

#### Approval and Promulgation of Implementation Plans; State of Missouri

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the state of Missouri. This revision pertains to a change in the state's construction permits rule. Approval of this revision will ensure consistency between the state and Federally-approved rules, and ensure Federal enforceability of the state's air program rule revision.

In the final rules section of the **Federal Register**, EPA is approving the state's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no relevant adverse comments to this action. A detailed rationale for the approval is set forth in the direct final rule. If no relevant adverse comments are received in response to this action, no further activity is contemplated in relation to this action. If EPA receives relevant adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed action. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on part of this rule and if that part can be severed from the remainder of the rule, EPA may adopt as final those parts of the rule that are not the subject of an adverse comment.

**DATES:** Comments on this proposed action must be received in writing by September 26, 2002.

**ADDRESSES:** Comments may be mailed to Wayne Kaiser, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

**FOR FURTHER INFORMATION CONTACT:** Wayne Kaiser at (913) 551-7603.

**SUPPLEMENTARY INFORMATION:** See the information provided in the direct final rule which is located in the rules section of the **Federal Register**.