

operating schedule immediately at the end of the designated time period. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: November 10, 2010.

**Eric A. Washburn,**  
Bridge Administrator.

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 167

[Docket No. USCG-2002-12702]

RIN 1625-AA48

#### 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, DHS.

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

**SUMMARY:** In this interim rule with request for comments, the Coast Guard codifies 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. These traffic separation schemes (TSSs) were validated by a Port Access Route Study (PARS) conducted under the Ports and Waterways Safety Act (PWSA), 33 U.S.C. 1221-1232 and were adopted by the International Maritime Organization (IMO). They have been shown on National Oceanic and Atmospheric Administration (NOAA) charts since 2006, and are currently documented in the IMO publication "Ships' Routing," Ninth Edition, 2008.

Codifying these internationally recognized traffic separation schemes provides better routing order and predictability, increases maritime safety, and reduces the potential for collisions, groundings, and hazardous cargo spills.

The Coast Guard is issuing this interim rule with a request for comments to permit the public to comment on changes made to some geographic positions located in Haro Strait, Boundary Pass, and the Strait of Georgia that were made after the notice of proposed rulemaking (NPRM).

**DATES:** This interim rule is effective January 18, 2011.

Comments and related material must be received by the Coast Guard on or before January 3, 2011.

**ADDRESSES:** You may submit comments identified by docket number USCG-2002-12702 using any one of the following methods:

(1) *Federal eRulemaking Portal:*  
<http://www.regulations.gov>.

(2) *Fax:* 202-493-2251.

(3) *Mail:* Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590-0001.

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

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

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

#### SUPPLEMENTARY INFORMATION:

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## I. Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted, without change, to <http://www.regulations.gov> and will include any personal information you have provided.

### A. Submitting Comments

If you submit comments, please include the docket number for this rulemaking (USCG-2002-12702), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online, or by fax, mail or hand delivery, but please use only one of these means. We recommend that you include your name and a mailing address, an e-mail address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov> and click on the "submit a comment" box, which will then become highlighted in blue. In the "Document Type" drop down menu select "Proposed Rule" and insert "USCG-2002-12702" in the "Keyword" box. Click "Search" then click on the balloon shape in the "Actions" column. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change this rule based on your comments.

### B. Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov> and click on the "read comments" box, which will then become highlighted in blue. In the "Keyword" box insert "USCG-2002-12702" and click "Search." Click the "Open Docket Folder" in the "Actions" column. If you do not have access to the Internet, you may view the document online by visiting the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue, SE., Washington,

DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

#### C. Privacy Act

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

#### D. Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for one using one of the methods specified under **ADDRESSES**. In your request, explain why you believe a public meeting would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

## II. Abbreviations

ATBA Area To Be Avoided  
CFR Code of Federal Regulations  
CVTS Cooperative Vessel Traffic Service  
FR **Federal Register**  
IMO International Maritime Organization  
IR Interim Rule  
NOAA National Oceanic and Atmospheric Administration  
NPRM Notice of Proposed Rulemaking  
PARS Port Access Route Study  
PWSA Ports and Waterways Safety Act  
RNA Regulated Navigation Area  
TSS Traffic Separation Scheme  
TEU Twenty-Foot Equivalent Unit

## III. Regulatory History

On August 27, 2002, we published a notice of proposed rulemaking (NPRM) entitled "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" in the **Federal Register** (67 FR 54981). The NPRM was originally assigned a Department of Transportation rulemaking identification number (RIN) 2115-AG45. It has been reassigned a Department of Homeland Security RIN 1625-AA48. The docket number has not changed. We received nine letters commenting on the proposed regulations discussed in the NPRM. We discuss our responses to these comments in Part V of this interim rule. The commenters did not request a

public meeting, and we did not hold one.

## IV. Basis and Purpose

### A. General

The Ports and Waterways Safety Act (PWSA; 33 U.S.C. 1221-1232) grants the Coast Guard authority to establish traffic separation schemes (TSSs) where necessary, to provide safe access routes for vessels proceeding to or from United States ports. Before implementing a new TSS or modifying an existing TSS, we conduct a Port Access Route Study (PARS). Through the PARS process, we consult 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 or modify the TSS. Once a TSS has been established, the right of navigation takes precedence over all other uses within the TSS.

The International Maritime Organization (IMO) follows a parallel structure. It receives proposals for vessel traffic measures from the country or countries with jurisdiction over the affected waterway. If the IMO adopts a proposal, it publishes the vessel traffic measure in its publication "Ships Routeing." In this way, the IMO serves as a clearing agent to ensure that vessel traffic measures are made available to the global maritime community through a single source. Additionally, when the IMO adopted the TSSs, it made the provisions of Rule 10 of the International Regulations for Avoiding Collisions at Sea (COLREGS) applicable to vessels using the TSSs.

### B. TSS History

The IMO first adopted TSSs in the Strait of Juan de Fuca and its approaches on April 3, 1981, and implemented them January 1, 1982. The IMO adopted TSSs in Puget Sound and its approaches on December 1992, and implemented them on June 10, 1993. As discussed in C. below, on January 20, 1999, the Coast Guard published a PARS "Notice of Study" (64 FR 3145). We published a notice of preliminary study recommendations with request for comments on February 23, 2000 (65 FR 8917). On August 27, 2002, the Coast Guard published an NPRM (66 FR 6514) regarding the TSSs that are the subject of this rulemaking as discussed in Part III, "Regulatory History" above.

However, these TSSs were never added to the CFR.

As described in the NPRM, 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 were implemented on December 1, 2002, per IMO Circular COLREG.2/Circ.51 dated May 31, 2002. To view the circular, visit the docket for this rulemaking at <http://www.regulations.gov>.

Canada and the United States submitted a joint proposal to the IMO in March 2004 requesting minor changes to some coordinates of the TSSs in Puget Sound and its approaches in Haro Strait, Boundary Pass, and the Strait of Georgia. The IMO approved the changes and they were implemented on July 1, 2005, per IMO Circular COLREG.2/Circ.55 dated December 15, 2004. To view the circular, visit the docket for this rulemaking at <http://www.regulations.gov>.

Canada and the United States submitted a second joint proposal to the IMO in March 2005, requesting additional minor changes to the Canadian portion of the TSSs in the Strait of Juan de Fuca and its approaches. The IMO approved the changes and they were implemented on December 1, 2006, per IMO Circular COLREG.2/Circ.57 dated May 26, 2006. To view the circular, visit the docket for this rulemaking at <http://www.regulations.gov>.

All TSSs that would be codified by this interim rule have been shown in their current configuration on NOAA charts since 2006 and are published in "Ships' Routeing," Ninth Edition, 2008, published by the IMO. NOAA adds or modifies TSSs on its charts after they are either added to the CFR by the Coast Guard or adopted by the IMO. The IMO Ships' Routeing instructions can be purchased from IMO through their Web site at <http://www.imo.org>.

### C. Port Access Route Study (PARS)

The Coast Guard published a notice of study on January 20, 1999, (64 FR 3145). The study results can be found at [Regulations.gov](http://Regulations.gov) under docket number USCG-1999-4974. The purpose of the study was to review and evaluate the need for modifications to the vessel routing and traffic management measures in and around the Strait of Juan de Fuca, including Admiralty Inlet, Haro Strait, Boundary Pass, the Strait of Georgia, Rosario Strait, and adjacent waters. The study area also outlined both United States and Canadian TSSs and the Area to be Avoided (ATBA) "Off the Washington Coast." United States

and Canadian Coast Guards cooperatively manage portions of the study area. The countries accomplish joint waterway management primarily through the Cooperative Vessel Traffic Service (CVTS). A CVTS agreement entered into in 1979 sets forth the terms and conditions for joint management of the CVTS. Under the CVTS Agreement, vessel traffic centers located at Tofino and Victoria, British Columbia, Canada; and Seattle, Washington, manage vessel traffic transiting in the study area, regardless of the boundary between the two countries.

We developed the PARS using several related vessel traffic studies, waterways analysis and management system reports, and extensive consultations between the United States and Canadian governments. Officials from both governments embarked on an outreach program to present recommended changes in the study area and request comments from a wide group of waterway users and other potentially affected and interested groups, including the general public; representatives of the shipping industry, master mariners, ports, pilots, and environmental interests; U.S. Federal, State, and local government agencies; Canadian government agencies; and tribal governments. We took into account the responders' concerns, including impacts to industry and the environment, when conducting the PARS. The recommended changes also considered the increased burden to and the practical navigation aspects for the shipping industry. We published a notice of preliminary study recommendations with request for comments on February 23, 2000 (65 FR 8917). We published a notice of study results for the PARS on January 22, 2001 (66 FR 6514).

In the PARS, we concluded that the TSSs, as they existed prior to the NPRM, 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 offshore;
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 the precautionary area designated "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.

#### V. Discussion of NPRM Comments

As a follow-up to the PARS, the Coast Guard published an NPRM on August 27, 2002 (67 FR 54981). We received nine letters in response to the NPRM.

Five commenters disagreed with the proposed TSS in the Strait of Juan de Fuca and stated that:

(1) The proposed TSS would cause a net loss of over 30 percent of fishable waters;

(2) The proposed TSS represented a violation of certain tribal treaty rights that had been enjoyed by local tribes for decades; and

(3) The proposed TSS would affect a significant number of local tribes.

A sixth commenter disagreed with the modified TSS on the grounds that it would cause local tribes to lose a significant amount of fishable waters. Because of these comments, we entered into tribal consultations under Executive Order 13175. As a result of these consultations, the local tribes agreed to take no action that would prevent the TSSs as described in the IR from taking effect and the Coast Guard agreed to: (1) Make permanent existing interim Vessel Traffic Service measures related to the treaty longline fishery and treaty salmon fishery; and (2) implement a regulated navigation area (RNA) to further protect the tribes' interest in the area. The local tribes and the U.S. Government, acting through the Coast Guard, entered into a Settlement Agreement on April 19, 2006, to reflect the rights and obligations of the parties. An explanation of the consultation process and its results are further discussed in section VII. J., "Indian Tribal Governments."

Five commenters also proposed that we adopt a differently configured TSS, which they claimed would maintain safety while adding to the fishable area in the separation zone by 5 percent. A sixth commenter proposed that we revisit the TSS and come up with a new scheme that would not diminish fishable waters in the Strait of Juan de Fuca. We did not concur with the comments, but, as noted above, entered into tribal consultations. Ultimately, we

did not reconfigure the TSSs as recommended by these commenters. An explanation of the consultation process and its results are further discussed in section VII. J., "Indian Tribal Governments."

One commenter agreed that a modified TSS is necessary in the Strait of Juan de Fuca, but disagreed with the new demarcation around Haro Strait. The same commenter proposed that the lane near the Haro Strait be widened so that faster ships would be able to pass slower ships in transit. We agreed with the commenter. The area referred to by the commenter is managed by the Canadian Coast Guard. Therefore, we worked with Canada and developed a mutually agreeable proposal that is currently shown on NOAA charts and IMO publications. The IR reflects changes to the demarcation around Haro Strait and a widening of the lane near Haro Strait.

One commenter assessed the TSS in the Strait of Juan de Fuca and asserted that the proposed lanes would not create any new safety problems in the Strait. The commenter also evaluated the tribes' proposals and concluded that the proposed lanes would not cause any extra safety hazards in the Strait. We concurred with this commenter and did not amend the TSSs in this area.

One commenter agreed with the proposed TSS in the Strait of Juan de Fuca, but advocated that we implement more stringent safety guidelines for oil tankers. This commenter also proposed that we provide charts of the modified TSSs in the Code of Federal Regulations (CFR). We did not concur with implementing more stringent safety guidelines for oil tankers in this rulemaking. Implementing more stringent safety guidelines for oil tankers is not within the scope of this rulemaking. The focus of this rule is on the codification of TSSs.

One commenter proposed including charts of the TSSs in the CFR. We did not concur with providing charts of the modified TSSs in the CFR. Providing charts of the TSSs in the CFR would be unwieldy, difficult to read, and would not be useful to mariners for navigational purposes. All TSSs codified in this rule are reflected on current NOAA charts and published in the IMO's "Ships' Routeing," Ninth Edition, 2008.

#### VI. Discussion of the Interim Rule (IR)

This rule codifies 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. All TSSs codified in this rule

are shown on current NOAA charts and are published in "Ships' Routing," Ninth Edition, 2008, International Maritime Organization. The TSSs codified in this rule, except as explained in paragraph 10 below, "Adjustment of TSSs in the IR," are based on the recommendations of the PARS study published on January 22, 2001 (66 FR 6514).

1. *Reconfiguring and extending seaward the TSS at the entrance to the Strait of Juan de Fuca.* In August 2002, all traffic entering the Strait of Juan de Fuca was funneled into the Strait through one of two short traffic lanes. The southwest inbound traffic lane directed traffic within 1 mile of Duntze Rock. This convergence near Buoy Juliet was close to the rocky shoreline of Cape Flattery, lay within the Olympic Coast National Marine Sanctuary, and funneled inbound southern traffic along the northern and western borders of the existing ATBA.

A large percentage of the slower traffic, including tugs and barges and small fishing vessels, usually transited inbound and outbound south of the designated traffic lanes when on coastwise voyages to and from the south. This practice eliminated the need for slower southbound traffic to cross the traffic lanes and the potentially dangerous overtaking situations arising from disparate transit speeds. However, under the configuration as of August 2002, this traffic scheme forced slower traffic to transit extremely close to Duntze Rock and infringed on either the ATBA or the inbound traffic lane.

Commercial and sport fishing areas were in and adjacent to the traffic lanes at the entrance to the Strait. Occasionally, fishing vessels in the area created a potentially hazardous conflict for vessels following the TSS, particularly during periods of reduced visibility.

This interim rule with request for comments extends the TSS at the entrance to the Strait approximately 10 nautical miles farther offshore and centers the separation zone on the international border at the entrance. This creates a "buffer zone" between the southernmost TSS lane and Duntze Rock and the nearby ATBA. This relocation provides ample maneuvering space for resolving conflicting routes as vessels converge toward the entrance of the Strait, which improves order and predictability for all entry and exit lanes. These changes, along with changes for the ATBA boundary, allow sufficient room for slower vessels to transit without conflicting with inbound traffic steering for the southern approach to the TSS. They also provide

a greater margin of safety around the hazards of Duntze Rock and Tatoosh Island.

In reconfiguring and extending the TSSs beyond the configuration as it existed in August 2002, we considered the location of fishing areas off the entrance to the Strait. While it was not possible to completely segregate the TSS from the fishing areas, the changes minimize potential conflicts and improve the existing configuration. Reconfiguring and extending the routes provides predictability farther offshore, thereby reducing potentially hazardous conflicts between vessels following the TSS and vessels fishing at the entrance to the Strait.

2. *Modifying the location, orientation, and dimensions of the TSS in the Strait of Juan de Fuca.* In August 2002, over two-thirds of the TSS was located on the United States side of the International Boundary. The separation zone was approximately four nautical miles wide, of which approximately three nautical miles was in United States waters. This alignment of the TSS reduced the amount of navigable water available to vessels transiting, outbound or inbound, south of the TSS and placed inbound traffic following the lanes closer to land than vessels transiting in the outbound lanes.

In this interim rule with request for comments, the western segment of the TSS shifts one-half mile to the north and reduces the width of the entire separation zone to a maximum of three nautical miles. The minimum width of the separation zone and the width of the traffic lanes remains one nautical mile. This reduces the potential for powered groundings on the United States shoreline by creating a larger buffer between the TSS and shore. It also creates additional space for the existing in-shore vessel traffic that transits south of the TSS.

We considered the impact of the changes on the existing Canadian Practice Firing Range (Exercise Area WH). Exercises will continue to be conducted in a manner that does not 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.* In August 2002, five TSSs converged 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 interacted and

competed for space at this convergence point in the traffic scheme.

The traffic configuration was designed primarily to deliver inbound vessels to the pilot stations located at Port Angeles, Washington; and Victoria, British Columbia. The configuration did not give adequate safety consideration to other waterway users. For example, the configuration did 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 August 2002 TSS routing leading to the Port Angeles pilot station was identified through casualty histories as a substantial cause for concern. Vessels bound for the Port Angeles pilots' station were required by the TSS to steer almost directly on Ediz Hook. To pick up a pilot, a vessel first had to execute a 60-degree turn and then slow to maneuvering speed, which created different impacts on the vessel's steering capability. At this point, a vessel was particularly vulnerable to currents and seas. If an engineering failure occurred during this operation, the vessel was at significant risk of a drift or powered grounding on Ediz Hook.

Since publication of the NPRM in August 2002 the pilot station has been relocated. Changing the traffic lane leading to the relocated pilot station eliminated the need for an incoming deep-draft vessel to steer directly toward Ediz Hook to pick up a pilot. The IR also adds a new east/west TSS leading east from precautionary area "PA" to establish a predictable route for vessels that do not require pilotage, thus reducing the risk of collision with vessels maneuvering to pick up a pilot.

4. *Moving the vessel traffic lanes southeast of Victoria, British Columbia, farther off shore.* In August 2002, on the Canadian side of the international boundary, outbound tugs and barges exited the TSS at Discovery Island. These vessels headed 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, attempted to stay north of the TSS. However, vessels frequently entered the lanes near Trial Island, Discovery Island, and the pilot station. This behavior created unnecessary and potentially dangerous interactions between deep-draft vessels following the TSS and smaller vessels that choose to skirt or cut diagonally across the TSS.

In the IR we move the vessel traffic lanes to 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 inshore buffer allows 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.* In August 2002, the Victoria Pilot Station was located at the convergence of two TSSs where there was significant traffic congestion as vessels transited to and from the ports of Victoria and Esquimalt. Likewise, three TSSs converged east and northeast of Discovery Island, where vessels often entered or exited the traffic scheme. Consequently, vessels had to proceed with caution in both these areas. To address the traffic congestion in these areas this IR establishes new precautionary areas "V", "HS," and "DI."

6. *Creating a new two-way route in Haro Strait and Boundary Pass and establishing a precautionary area off Turn Point.* In August 2002, there were no formal traffic lanes in Haro Strait and Boundary Pass. In recent years, the level of recreational boating has significantly increased. Also, there has been explosive growth in the number of small commercial vessels providing whale-watching tours off the western shore of San Juan Island. This growth in the number of whale-watching tours has resulted in an increased number of 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 close to shore and in the presence of strong currents. In addition, numerous secondary channels and passages route traffic into Haro Strait in the vicinity of Turn Point.

This rule establishes a two-way route in Haro Strait and Boundary Pass that connects the TSS in Puget Sound and its approaches and the TSS Haro Strait and Boundary Pass in the south. This rule increases order and predictability for vessel traffic in these waters. The route established by this IR reduces dangerous interactions between the deep-draft vessels following the TSS and smaller vessels that choose not to follow the TSS. The regulation moves the edge of the traffic lane to the east from Kellet Bluff to Turn Point and creates a flair, or pull out, south of Turn Point to provide maneuvering room for a vessel to safely negotiate the strong ebb currents. The regulation also creates a precautionary area around Turn Point

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.* In August 2002, deep-draft vessels often could not precisely follow the TSS when approaching Rosario Strait from the south. Strong currents made it impossible for vessels to avoid the separation zone as they negotiated 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 rule replaces a small portion of the lane with an expansion of precautionary area "RB." The regulation enhances the safety of deep-draft transits by eliminating a routing measure where large ships cannot comply and replacing it with a precautionary area where ships must navigate with particular caution.

8. *Revising and aligning the TSS in the Strait of Georgia with the exiting TSS north of Rosario Strait and linking them with a precautionary area off East Point.* In August 2002, there were no routing measures connecting the TSS in the Strait of Georgia that terminated off Patos Island with the TSS north of Rosario Strait that terminated off Saturna Island. Furthermore, these two TSSs were not aligned. Traffic exiting the Strait of Georgia bound for Rosario Strait followed the TSS to its termination before angling back to the north to enter the TSS at Patos Island. Routing vessels in this manner crowded the area and created a possible conflict with traffic southbound for Boundary Pass. Finally, there was no precautionary area in the vicinity of East Point where traffic merged from several directions.

This rule creates a seamless and logical traffic scheme for this area. 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 Strait of Georgia TSS with both the new Boundary Pass traffic lane and the old Patos Island TSS, this rule will allow traffic bound for Rosario Strait to follow the TSS without impeding traffic southbound for Boundary Pass. The new precautionary area highlights the need for potential crossing traffic in this area to exercise caution and provides 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 completion of the container facility at Delta Port significantly increased the volume of traffic entering and exiting the TSS in the Strait of Georgia. There has also been a considerable increase in traffic to and from the Tsawwassen Ferry Terminal. This rule establishes a precautionary area southwest of Delta Port and accommodates vessels departing Delta Port and the Tsawwassen Ferry Terminal, as they reach maneuvering speed before and while entering the TSS.

10. *Adjustment of TSSs in the IR.* This IR adjusts the configuration of certain TSSs as proposed in the NPRM. The TSSs have some coordinates located in United States waters and some coordinates located in Canadian waters. As discussed above, the United States and Canada cooperatively manage vessel traffic in this area. Since publication of the NPRM in August 2002, the United States and Canada have jointly submitted two proposals to make adjustments to geographical coordinates located in Canadian waters. Both proposals were approved and are reflected on current NOAA charts and published in the IMO's "Ships' Routing," Ninth Edition, 2008.

Since publication of the NPRM there have been changes to some of the geographical coordinates located in both Canadian and U.S. waters. Issuing an IR allows the Coast Guard to codify the coordinates of the TSSs as currently shown on NOAA charts and IMO publications but also solicit public comment on the adjustments that occurred since publication of the NPRM.

As discussed above, the Coast Guard published a NPRM for the TSSs in 2002. Subsequently, the U.S. and Canada have jointly submitted two proposals to change some of the coordinates. Both proposals were adopted by the IMO (IMO Circular COLREG.2/Cir.55 dated December 15, 2004 and IMO Circular COLREG.2/Circ. 57 dated May 26, 2006). The Coast Guard did not publish a supplemental notice of proposed rulemaking (SNPRM) for these changes. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an SNPRM. Under the Administrative Procedure Act (APA) "good cause" exception in 5 U.S.C. 553(b)(B), an agency may dispense with notice and comment procedures if the agency finds that following these APA requirements would be "impracticable, unnecessary, or contrary to the public interest." See Jeffrey L. Lubbers, A Guide to Federal Agency Rulemaking

(4th ed.) 105–109 (2006) for a discussion of agency findings of good cause in lieu of notice and comment procedures.

“Unnecessary,” for the purpose of the good cause exceptions to the requirements of the APA, refers to “the issuance of a minor rule in which the public is not particularly interested.” United States Department of Justice, Attorney General’s Manual On The Administrative Procedure Act at 31 (1947). Its use should be “confined to those situations in which the administrative rule is a routine determination, insignificant in nature and impact, and inconsequential to the industry and to the public.” *Utility Solid Waste Activities Group v. EPA*, 236 F.3d 749, 755 (DC Cir. 2001), citing *South Carolina v. Block*, 558 F.Supp. 1004,1016 (D.S.C. 1983). Participation in a TSS by a ship’s master is completely voluntary. Participation in a voluntary scheme does not impose a new requirement on mariners and therefore incorporation of the TSSs into the CFR is insignificant in nature and impact.

Including the TSSs in the CFR at this point is also inconsequential to the maritime industry and to the public

because the maritime industry and the public have been aware of, and in fact actively using, the proposed TSSs for at least four years. The IR merely seeks to incorporate into the CFR the same TSSs that have been in use since 2006 when the current configurations first appeared on NOAA charts and in IMO publications. There have been no comments, complaints, or requests for modification regarding the TSSs since that time. As the agency charged with the establishment of TSSs, the Coast Guard would be aware of any such comments, complaints or requests.

Courts prefer supplemental notice and comment when the public is likely to have new or different information.<sup>1</sup> The proposed TSSs are unchanged from the current familiar configuration. Therefore, as there is little or no likelihood that the public has new or different information than what is currently available, there is no reason to delay reaching a timely and final decision by engaging in an unnecessary second round of public comment.

*Additional notice and comment is contrary to the public interest:* As stated above, courts prefer supplemental notice and comment.<sup>2</sup> However, they

have also made clear that this preference should be balanced against the public’s interest in reaching a timely and final decision without unnecessary or duplicative rounds of public comment.<sup>3</sup>

In the current rule, the public’s interest to reach a timely and final decision without unnecessary or duplicative rounds of public comment outweighs the preference for additional notice and comment because the public is not likely to have new or different information. In fact, not only is it unlikely the public will have any new or different information, but the public is no longer interested in changes to this rule. As far as the public is concerned, these TSSs have been in active use for over four years. There have been no comments, complaints, or requests for modification. Therefore, an SNPRM is contrary to the public interest in that it defeats the public’s interest in reaching a timely and final decision.

The table of changes below highlights those coordinates that have changed since the NPRM. If we receive comments on those changes, we will consult with the Canadian Coast Guard regarding those comments.

TABLE OF CHANGES

Section No. in the NPRM	Geographical position coordinates	
	Proposed in the NPRM	IR adjustment
167.1301(b) .....	48°31.09’ N; 125°04.67’ W .....	48°32.09’ N; 125°04.67’ W.
	48°31.93’ N; 125°09.00’ W .....	48°32.09’ N; 125°08.98’ W.
167.1303 .....	48°31.09’ N; 125°04.67’ W .....	48°32.09’ N; 125°04.67’ W (point listed twice).
	48°31.09’ N; 125°00.00’ W .....	48°32.09’ N; 125°00.00’ W.
167.1311(b)(1) .....	48°31.09’ N; 124°47.13’ W .....	48°32.09’ N; 124°49.90’ W.
	48°31.09’ N; 125°00.00’ W .....	48°32.09’ N; 125°00.00’ W.
167.1311(b)(2) .....	48°31.09’ N; 124°47.13’ W .....	48°32.09’ N; 124°49.90’ W (point listed twice).
	48°31.09’ N; 125°00.00’ W .....	48°32.09’ N; 125°00.00’ W.
167.1322(c)(1) .....	48°27.79’ N; 123°07.80’ W .....	48°28.72’ N; 123°08.53’ W.
	48°27.58’ N; 123°08.10’ W .....	48°28.39’ N; 123°08.64’ W.
167.1322(c)(3) .....	48°28.15’ N; 123°07.31’ W .....	48°29.28’ N; 123°08.35’ W.
167.1322(c)(5) .....	48°27.43’ N; 123°08.94’ W .....	48°27.86’ N; 123°08.81’ W.
167.1331 .....	All geographical positions are changed. A new precautionary area “DI” has been added to the regulations.	
167.1332(e) .....	49°00.37’ N; 123°13.32’ W .....	49°02.20’ N; 123°16.28’ W.
	48°58.18’ N; 123°16.74’ W .....	49°00.00’ N; 123°19.69’ W.
167.1332(f) .....	48°59.53’ N; 123°14.66’ W .....	49°01.39’ N; 123°17.53’ W.
	49°03.80’ N; 123°21.24’ W .....	49°03.84’ N; 123°21.30’ W.
	49°03.14’ N; 123°22.26’ W .....	49°03.24’ N; 123°22.41’ W.
	48°58.90’ N; 123°15.63’ W .....	49°03.24’ N; 123°22.41’ W.
		49°00.75’ N; 123°18.52’ W.
167.1332(g) .....	49°00.37’ N; 123°13.32’ W .....	49°02.20’ N; 123°16.28’ W.
167.1332(h) .....	48°58.18’ N; 123°16.74’ W .....	49°00.00’ N; 123°19.69’ W.

**VII. Regulatory Analyses**

We developed this interim rule after considering numerous statutes and

executive orders related to rulemaking. Below we summarize our analyses

based on 13 of these statutes or executive orders.

<sup>1</sup> *Idaho Farm Bureau Fed’n v. Babbit*, 58 F.3d 1392 (9th Cir. 1995).

<sup>2</sup> *Idaho Farm Bureau Fed’n v. Babbit*, supra.

<sup>3</sup> *AFL-CIO v. Office of Personnel Management*, 618 F. Supp. 1254 (D.D.C. 1985); and *Public Citizen*

*Health Research Group v. F.D.A.*, 724 F. Supp. 1013, 1022 (D.D.C. 1989).

### A. Regulatory Planning and Review

This interim 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.

Public comments on the NPRM are summarized in Part V of this preamble. Since the publication of the NPRM, some geographical coordinates in Canadian waters were modified. The local tribal governments and the Coast Guard have reached an agreement relative to the TSSs as described in this preamble. An explanation of the consultation process and its results are further discussed in section VII.J., “Indian Tribal Governments.” We anticipate that the modifications to the TSSs made in consultation with the Indian Tribal governments do not alter our assessment of economic impacts in the NPRM.

We received no further public comments and have made no other changes that would alter our assessment of economic impacts in the NPRM. We have found no additional data or information that would change our findings in the NPRM. We have adopted the assessment in the NPRM for this interim rule.

As previously discussed, the TSSs codified in this IR are reflected on current NOAA charts and published in the IMO’s publication “Ships’ Routing,” Ninth Edition, 2008.

As discussed in the NPRM, this rulemaking may result in a slight increase in transit time because it codifies the extension of 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 may result in a minimal increase in regulatory costs to industry.

We anticipate no increased costs for vessels traveling within the Strait of Juan de Fuca and adjacent waterways, nor any increased costs due to modifications of the TSSs in Puget Sound and its approaches.

The expected benefits associated with codifying the existing TSSs include a potential reduction in the instances of groundings, collisions, and other vessel casualties, as well as an increase in vessel traffic efficiency.

### B. Small Entities

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

whether this interim 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.

In the NPRM, we certified under 5 U.S.C. 605(b) that the proposed rule would not have a significant economic impact on a substantial number of small entities. We received no public comments and have made no changes that would alter our assessment of impacts to small entities in the NPRM. We have found no additional data or information that would change our findings in the NPRM. See the “Small Entity” section of the NPRM for additional details.

Therefore, the Coast Guard certifies, under 5 U.S.C. 605(b), that this interim 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 offered 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 George Detweiler, Coast Guard, Marine Transportation Specialist, at 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,

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 does not have implications for federalism.

The PWSA authorizes the Secretary of Homeland Security 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 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 those contained in this rule. We understand that the State does 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.

In order for TSSs to apply to foreign-flagged vessels on the high seas, the IMO must adopt and implement the TSSs. The individual States of the United States are not represented at the IMO; 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. We recognize the interests of all local stakeholders as we work with the IMO to advance the goals of these TSSs.

### 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 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

At least four Native American tribes, the Jamestown S'Klallam Tribe, Lower Elwha Kallam Tribe, Makah Tribe, and Port Gamble S'Klallam Tribe (the Tribes), have traditionally fished in the Strait of Juan de Fuca and its approaches. The TSSs in the Strait, as it existed when we published a notice of study on January 20, 1999 (64 FR 3145), provided a broad separation zone, which allowed ample room for the Tribes' traditional longline and drift gillnet fisheries between the inbound and outbound vessel traffic lanes.

We published a Notice of Preliminary Study Recommendations with request for comments on February 23, 2000 (65 FR 8917). That notice contained the recommendation that the broad separation zone be narrowed and aligned with the international border. Implementation of that recommendation would straighten the routes for vessels transiting the TSS and move them farther north of Olympic Peninsula. The Tribes 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 the Tribes in March and August of 2000 and February of 2001. The meetings were intended to gather the Tribes' recommendations on how to improve the TSSs, yet minimize the impact on their longline and drift gillnet fisheries. Following these meetings, the Tribes submitted recommendations to widen the separation zone. Based on these submittals and discussions at the

meetings, we reassessed the PARS recommendation and widened the proposed zone enough to support the Tribes' longline and drift gillnet fisheries.

On August 27, 2002, we published an NPRM in the **Federal Register** (67 FR 54981), which proposed amending the then existing TSSs in the Strait. The decision to amend the then existing TSSs was based on a 1999–2000 PARS conducted by the Thirteenth Coast Guard District Office, Seattle, Washington. We used the PARS process, which included many consultations and meetings with various maritime entities, including the Tribes, to develop the proposals presented in the NPRM. When developing the proposed changes to the TSSs, we considered the location of the usual and accustomed fishing grounds off the entrance to and in the Strait of Juan de Fuca. We knew then that it was not possible to completely segregate the TSSs from the fishing grounds, but believed that the recommended changes would minimize potential conflicts and improve the TSSs configurations. We also believed that the proposed changes would provide better routing order and predictability, particularly offshore, thus reducing conflicts between vessels fishing at or near the entrance to the Strait and other vessel traffic. Based on the recommendations of the PARS, we submitted a proposal to the IMO, which included changes to the TSSs at the entrance to and in the Strait. The IMO adopted the changes, which were scheduled to take effect on December 1, 2002.

As discussed in Part V. "Discussion of Comments" above, the Tribes submitted comments to the NPRM docket stating that the proposed changes to the TSSs would substantially alter and diminish the Tribes' present and future fish harvests, as well as significantly reduce access to their usual and accustomed fishing areas. The Tribes asserted that this diminished access to the usual and accustomed fishing areas would diminish catches. They stated that diminished catches would impose substantial economic and non-economic costs on the Tribes and would constitute a substantial impact on the Tribes' treaty-protected rights to take fish at all usual and accustomed fishing areas. On November 8, 2002, out of concern that the proposed changes were scheduled to take effect on December 1, 2002, the Tribes sent the United States a request to meet and confer.

After discussions between the Tribes and the U.S. Coast Guard, the Tribes agreed to take no action to prevent the TSSs, as amended by the PARS and

adopted by IMO, from taking effect on December 1, 2002. The Tribes and the U.S. Coast Guard further agreed to enter into additional consultations and to make best efforts to arrive at a mutually acceptable TSS in the Western Strait of Juan de Fuca. We agreed that if agreement on a revised TSS was not reached by March 15, 2003, the U.S. Coast Guard would take the necessary measures both to suspend TSS between Buoy Juliet and the precautionary area of Port Angeles [as amended by the PARS and adopted by IMO] and to implement a domestic TSS that would return the southern boundary of the traffic separation zone to its original location.

The first consultation meeting between the Tribes and the United States acting through the U.S. Coast Guard was held on December 18, 2002, at the Point No Point Treaty Council offices. Additional consultation meetings also took place. These consultation meetings resulted in mutually agreeable, interim VTS measures that were intended to allow treaty fishing within the original TSS while the parties negotiated a more permanent solution to the TSS issue. The interim VTS measures were used in 2003 to ensure the successful completion of the treaty longline and drift gillnet fisheries.

At the consultation meeting on October 10, 2003, the parties agreed that implementation of the interim VTS measures on a permanent basis would better serve the interests of both the Tribes and the U.S. Coast Guard than revisions to the TSSs. The Tribes asked the U.S. Coast Guard to enter into a settlement agreement to provide the Tribes with assurance that the interim VTS measures that had been successfully used in 2003 would be made permanent, while providing procedures that would allow changes to these permanent VTS measures with the agreement of all affected Parties should it become necessary to do so.

On April 19, 2006, the United States, acting through the U.S. Coast Guard, and the Tribes, signed a settlement agreement. The document, entitled "Settlement Agreement Between the United States of America and the Jamestown S'Klallam Tribe, Lower Elwha Klallam Tribe, Makah Tribe, and Port Gamble S'Klallam Tribe," is available in the docket for this IR, and can be found by following the instructions listed above in section I.B., "Viewing comments and documents." A provision of the settlement agreement required the U.S. Coast Guard to create regulations establishing a regulated navigation area (RNA), to be published

in 33 CFR part 165. 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. We entered into a settlement agreement to mitigate the effects of this rule on the Tribes and their use of their historical fishing grounds. We invite your 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.

#### 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 (NTTAA) (15

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

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

#### M. Environment

We have analyzed this 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), and Waterways.

■ Accordingly, 33 CFR Part 167 is amended 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; Department of Homeland Security Delegation No. 0170.1.

■ 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:

Latitude	Longitude
48°32.09' N	125°04.67' W
48°32.09' N	125°08.98' W

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

Latitude	Longitude
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:

Latitude	Longitude
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:

Latitude	Longitude
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:

Latitude	Longitude
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:

Latitude	Longitude
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48°32.09' 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	124°57.90' W
48°29.11' N	125°00.00' W
48°30.10' N	125°00.00' W
48°32.09' N	125°00.00' W
48°32.09' 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) A traffic lane for north-westbound traffic.

(1) The traffic lane is established 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°32.09' N	124°49.90' W
48°32.09' N	125°00.00' W

(2) An exit from this lane between points 48°32.00' N, 124°46.57' W and 48°32.09' N, 124°49.90' W. Vessel traffic may exit this lane at this location or may remain in the lane between points 48°32.09' N, 124°49.90' W and 48°32.09' 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
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
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 North American Datum (NAD 83) defines the geographic coordinates in §§ 167.1321 through 167.1323.

**§ 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 within the separation zone described in paragraph (a) of this section and a line connecting the following geographical positions:

Latitude	Longitude
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 within the separation zone described in paragraph (a) of this section and a line connecting the following geographical positions:

Latitude	Longitude
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:

Latitude	Longitude
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 within the separation zone described in paragraph (e) of this section and a line connecting the following geographical positions:

Latitude	Longitude
48°44.62' N	122°44.96' W
48°41.80' N	122°42.70' W

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

Latitude	Longitude
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:

Latitude	Longitude
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:

Latitude	Longitude
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:

Latitude	Longitude
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:

Latitude	Longitude
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:

Latitude	Longitude
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:

Latitude	Longitude
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:

Latitude	Longitude
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:

Latitude	Longitude
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 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:

Latitude	Longitude
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:

Latitude	Longitude
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:

Latitude	Longitude
48°28.72' N	123°08.53' 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°28.39' N	123°08.64' 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°29.28' N	123°08.35' 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 paragraph (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°27.86' N	123°08.81' 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 paragraph (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," 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
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 and 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:

<i>Latitude</i>	<i>Longitude</i>
48°23.15' N	123°21.12' W
48°23.71' N	123°23.88' W
48°21.83' N	123°25.56' W
48°21.15' N	123°24.83' W
48°20.93' N	123°24.26' W
48°20.93' N	123°23.22' W
48°21.67' N	123°21.12' W
48°23.15' N	123°21.12' 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:

<i>Latitude</i>	<i>Longitude</i>
48°22.25' N	123°21.12' W
48°22.25' N	123°17.95' W
48°23.88' N	123°13.18' W
48°24.30' N	123°13.00' W
48°22.55' N	123°18.05' W
48°22.55' 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:

<i>Latitude</i>	<i>Longitude</i>
48°21.67' N	123°21.12' W
48°21.67' N	123°17.70' W
48°23.10' N	123°13.50' 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:

<i>Latitude</i>	<i>Longitude</i>
48°25.10' N	123°12.67' W
48°23.15' N	123°18.30' W
48°23.15' N	123°21.12' W

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

<i>Latitude</i>	<i>Longitude</i>
48°23.10' N	123°13.50' W
48°24.30' N	123°09.95' W
48°26.57' N	123°09.22' W
48°25.10' N	123°12.67' W
48°23.10' N	123°13.50' W

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

<i>Latitude</i>	<i>Longitude</i>
48°25.96' N	123°10.65' W
48°27.16' N	123°10.25' W
48°28.77' N	123°10.84' W
48°29.10' N	123°11.59' W
48°25.69' N	123°11.28' W

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

<i>Latitude</i>	<i>Longitude</i>
48°26.57' N	123°09.22' W
48°27.86' N	123°08.81' W

(h) 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°29.80' N	123°13.15' W
48°25.10' N	123°12.67' W

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

<i>Latitude</i>	<i>Longitude</i>
48°27.86' N	123°08.81' W
48°29.28' N	123°08.35' W
48°30.55' N	123°10.12' W
48°31.60' N	123°10.65' W
48°32.83' N	123°13.45' W
48°29.80' N	123°13.15' W
48°27.86' N	123°08.81' W

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

<i>Latitude</i>	<i>Longitude</i>
48°31.60' N	123°10.65' W
48°35.21' N	123°12.61' W
48°38.37' N	123°12.36' W
48°39.41' N	123°13.14' W
48°39.41' N	123°16.06' W
48°32.83' N	123°13.45' W

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

<i>Latitude</i>	<i>Longitude</i>
48°41.06' N	123°11.04' W
48°42.23' N	123°11.35' W
48°43.80' N	123°10.77' W
48°43.20' N	123°16.06' W
48°39.41' N	123°16.06' W
48°39.32' N	123°13.14' W
48°39.76' N	123°11.84' W

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

<i>Latitude</i>	<i>Longitude</i>
48°42.23' N	123°11.35' W
48°45.51' N	123°01.82' W
48°47.78' N	122°59.12' W
48°48.19' N	123°00.84' W
48°46.43' N	123°03.12' W
48°43.80' N	123°10.77' 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°02.20' N	123°16.28' W
49°00.00' N	123°19.69' W

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

Latitude	Longitude
49°01.39' N	123°17.53' W
49°03.84' N	123°21.30' W
49°03.24' N	123°22.41' W
49°00.75' N	123°18.52' 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°02.20' N	123°16.28' 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
49°00.00' N	123°19.69' W

Dated: November 9, 2010.

**Dana A. Goward,**

*U.S. Coast Guard, Director of Marine*

*Transportation Systems Management.*

[FR Doc. 2010–29165 Filed 11–18–10; 8:45 am]

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

#### 42 CFR Parts 482 and 485

[CMS–3228–F]

RIN 0938–AQ06

#### Medicare and Medicaid Programs: Changes to the Hospital and Critical Access Hospital Conditions of Participation To Ensure Visitation Rights for All Patients

**AGENCY:** Centers for Medicare & Medicaid Services (CMS), HHS.

**ACTION:** Final rule.

**SUMMARY:** This final rule will revise the Medicare conditions of participation for hospitals and critical access hospitals (CAHs) to provide visitation rights to Medicare and Medicaid patients. Specifically, Medicare- and Medicaid-participating hospitals and CAHs will be required to have written policies and procedures regarding the visitation rights of patients, including those setting forth any clinically necessary or reasonable restriction or limitation that the hospital or CAH may need to place on such rights as well as the reasons for the clinical restriction or limitation.

**DATES:** *Effective Date:* These regulations are effective on January 18, 2011.

**FOR FURTHER INFORMATION CONTACT:**

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**SUPPLEMENTARY INFORMATION:**

#### I. Background

On April 15, 2010, the President issued a Presidential Memorandum on Hospital Visitation to the Secretary of Health and Human Services. The memorandum may be viewed on the Web at: <http://www.whitehouse.gov/the-press-office/presidential-memorandum-hospital-visitacion>. As part of the directives of the memorandum, the Department, through the Office of the Secretary, tasked CMS

with developing proposed requirements for hospitals (including Critical Access Hospitals (CAHs)), that would address the right of a patient to choose who may and may not visit him or her. In the memorandum, the President pointed out the plight of individuals who are denied the comfort of a loved one, whether a family member or a close friend, at their side during a time of pain or anxiety after they are admitted to a hospital. The memorandum indicated that these individuals are often denied this most basic of human needs simply because the loved ones who provide them comfort and support do not fit into a traditional concept of “family.”

Section 1861(e)(1) through (9) of the Social Security Act—(1) Defines the term “hospital”; (2) lists the statutory requirements that a hospital must meet to be eligible for Medicare participation; and (3) specifies that a hospital must also meet other requirements as the Secretary finds necessary in the interest of the health and safety of individuals who are furnished services in the facility. Under this authority, the Secretary has established in the regulations at 42 CFR part 482 the requirements that a hospital must meet in order to participate in the Medicare program. This authority extends as well to the separate requirements that a CAH must also meet to participate in the Medicare program, established in the regulations at 42 CFR part 485. Additionally, section 1820 of the Act sets forth the conditions for designating certain hospitals as CAHs. Section 1905(a) of the Act provides that Medicaid payments may be applied to hospital services. Regulations at 42 CFR 440.10(a)(3)(iii) require hospitals to meet the Medicare CoPs to receive payment under States’ Medicaid programs.

While the existing hospital conditions of participation (CoPs) in our regulations at 42 CFR part 482 do not address patient visitation rights specifically, there is a specific CoP regarding the overall rights of hospital patients contained in § 482.13. We note that the existing CoPs for CAHs in our regulations do not address patient rights in any form. The hospital CoP for patient rights at § 482.13 specifically requires hospitals to—(1) Inform each patient or, when appropriate, the patient’s representative (as allowed under State law) of the patient’s rights; (2) ensure the patient’s right to participate in the development and implementation of the plan of care; (3) ensure the patient’s (or his or her representative’s) right to make informed decisions about care; (4) ensure the patient’s right to formulate advance