Dated: August 6, 2012.

J.E. Ogden,

Captain, U.S. Coast Guard, Captain of the Port, Sector Detroit.

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 161

[Docket No. USCG–2011–1024]

RIN 1625–AB81

Vessel Traffic Service Updates, Including Establishment of Vessel Traffic Service Requirements for Port Arthur, TX and Expansion of VTS Special Operating Area in Puget Sound

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to revise and update the Vessel Traffic Service (VTS) regulations in 33 CFR part 161. The revision would require participation in the VTS in Port Arthur, Texas, which is now voluntary; consolidate and expand a VTS Special Area in Puget Sound, Washington; update the designated frequencies for the Maritime Mobile Service Identifiers (MMSI) for Louisville and Los Angeles/Long Beach; and update the definitions and references in Sailing Plan requirements. The changes made by this proposed rule are intended to align regulations with the current operating procedures of the VTSs affected, with the benefit of creating regulatory efficiency.

DATES: Comments and related material must either be submitted to our online docket via *http://www.regulations.gov* on or before December 10, 2012 or reach the Docket Management Facility by that date.

ADDRESSES: You may submit comments identified by docket number USCG–2011–1024 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 proposed rule, call or email Lieutenant Commander Patricia Springer, Office of Shore Forces (CG–7413), Coast Guard; telephone 202–372–2576, email *Patricia.J.Springer@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.

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I. Public Participation and Request for Comments

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

A. Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (USCG–2011–1024), 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 email address, or a phone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov* and insert ''USCG–2011–1024'' in the ''Search'' box. Click on ''Submit a comment'' 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 comments 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 proposed 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,* insert ''USCG–2011–1024'' and click ''Search.'' Click the ''Open Docket Folder'' in the ''Actions'' column. If you do not have access to the Internet, you may view the docket 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 to the docket 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

AIS Automatic Identification System
CDC Certain Dangerous Cargos
MMSI Maritime Mobile Service Identifier
MTSA Maritime Transportation Security Act of 2002
NDG National Dialogue Group
NPRM Notice of Proposed Rulemaking
PAWSA Port and Waterway Safety Assessment
PAWSS Port and Waterways Safety System
PWSA Ports and Waterways Safety Act
SOLAS International Convention for the Safety of Life at Sea
U.S.C. United States Code
VTM Vessel Traffic Management
VTS Vessel Traffic Service

III. Background

In the late 1990s, the Coast Guard convened a national dialogue group (NDG) comprised of maritime and waterway community stakeholders to identify the needs of waterway users with respect to Vessel Traffic Management (VTM) and Vessel Traffic Service (VTS) systems. Those stakeholders, representing port authorities, pilots, environmental conservationists, the Coast Guard, and all major sectors of the U.S. and foreign-flag shipping industry were tasked to identify the information needs of waterway users to help ensure safe passage, assist in establishing a process to identify candidate waterways for VTM improvements and VTS installations, and identify the basic elements of a VTS. The intent of the NDG was to provide the foundation for an approach to VTM that would meet the stakeholders' shared objective of improving vessel traffic safety in U.S. ports and waterways in a technologically sound and cost-effective way.

The major outcome of the NDG was the development of the Port and Waterways Safety Assessment (PAWSA) process, which the Coast Guard established to open a dialogue with waterway users and port stakeholders to help identify needed VTM improvements and to determine candidate VTS waterways. PAWSA provides a formal structure for identifying risk factors and evaluating potential mitigation measures. The process requires the participation of experienced waterway users having local expertise in navigation, waterway conditions, and port safety. In addition, the Coast Guard includes non-maritime industry stakeholders in the process to ensure that important environmental, public safety, and economic considerations are given appropriate attention as risk-mitigation measures are selected.

The Coast Guard has conducted 47 PAWSA workshops in U.S. ports since the PAWSA process was developed in 1999, including one in Port Arthur, Texas, on September 21–23, 1999 and one in Lake Charles, Louisiana, on April 25–26, 2000. The Port Arthur, TX and Lake Charles, Louisiana PAWSA reports are publicly available on the NAVCEN Web site at *http://www.navcen.uscg.gov/?pageName=pawsaFinalReports* and in the docket for this rulemaking (USCG–2011–1024); see the ''Viewing Comments and Documents'' section of this proposed rule for more information. Based upon the mitigation recommendations contained in these PAWSA reports as well as resource availability and the existence of port infrastructure to support VTS efforts, the Coast Guard determined that Port Arthur, Texas and Lake Charles, Louisiana have a valid need for a Coast Guard-operated VTS.

As a result of the Port Arthur PAWSA workshop, which determined that a VTS would provide the greatest potential to mitigate risk in the port, the Coast Guard added Port Arthur to the Port and Waterways Safety System (PAWSS) acquisition project. The PAWSS project's goal was to install a computer-based VTM system in VTS ports. The installation of the VTS system in Port Arthur began in 2004 with voluntary operations slated to begin in September 2005. Due to disruptions from Hurricane Rita, VTS Port Arthur provided limited services from September 2005 until February 2006 when the VTS attained full operational capability.

Although this proposed rule would change VTS Port Arthur from a voluntary system to a system of mandatory compliance for vessels transiting VTS Port Arthur, the Coast Guard does not believe it would alter vessel operations or impose new costs on industry or the Coast Guard. The Coast Guard makes this determination because, under 33 CFR 164.46(3), all vessels which would be affected by changing VTS Port Arthur to a mandatory VTS system are already equipped with Automatic Identification Systems (AIS). Because AIS carriage requirements are the sole cost item for vessels to comply with VTS requirements, have been in force since December 31, 2004, and currently include the VTS Port Arthur area under 33 CFR Table 161.12(c), we have determined that changing VTS Port Arthur to a mandatory VTS should not alter current vessel operations or impose new costs on either the industry or the Coast Guard.

This proposed rule would also expand the currently voluntary Port Arthur VTS area to include Lake Charles, Louisiana. The 2000 Lake Charles PAWSA study supported the establishment of a VTS in Lake Charles. Coast Guard data pertaining to commercial vessel activities indicate that commercial vessels that transit the proposed expansion area of Lake Charles satisfy the AIS carriage requirements established under 33 CFR 164.46(3). Therefore, the Coast Guard does not believe that expanding Port Arthur VTS to include Lake Charles, LA, would alter current vessel operations or impose new costs on industry or the Coast Guard.

In addition to making participation in the Port Arthur VTS mandatory, this proposed rule would consolidate and expand the two VTS Special Areas in Puget Sound. A VTS Special Area is defined in 33 CFR 161.2 as ''a waterway within a VTS area in which special operating requirements apply.'' The Coast Guard institutes a VTS Special Area when geographic or other conditions, such as concentration of vessels or vessels carrying particular hazards, make a portion of the waterway an inherently dangerous navigational area.

When the federal regulations for vessel traffic systems were first implemented in 1994 (59 FR 36316, July 15, 1994), the Coast Guard instituted two VTS Special Areas within the VTS Puget Sound. These VTS Special Areas serve to avoid having large vessels impeding, meeting, overtaking or crossing with each other's intended track in the constricted waters between the San Juan Islands in Puget Sound.

In addition to the two existing VTS Special Areas in Puget Sound, special operating requirements have traditionally been issued in the proposed expansion area by VTS Puget Sound due to the relatively restricted nature of these waters. The proposed rule would incorporate into a single consolidated VTS Special Area the waters of the two existing VTS Special Areas and the waters currently covered by these special operating requirements. Because this rule would simply consolidate existing vessel operating procedures within VTS Puget Sound, the Coast Guard does not anticipate that the expansion of this VTS Special Area would alter current vessel operations or impose new regulatory costs on industry. This codification simplifies

compliance with these traffic management requirements.

Finally, this proposed rule would make two minor updates to the VTS regulations. The first change adds Maritime Mobile Service Identifier (MMSI) numbers, which are required for any AIS equipment installation, to the table in 33 CFR 161.12 as a result of the installment of Automatic Identification System (AIS) base stations in the Louisville, KY, VTS Area and Los Angeles/Long Beach Vessel Movement Reporting System area. The second change removes an outdated reference to Dangerous Cargo, and adds an updated reference to Certain Dangerous Cargo in 33 CFR 160.204.

IV. Discussion of Proposed Rule

This proposed rule would revise regulations in 33 CFR part 161 as follows:

A. § 161.12 Vessel Operating Requirements

We propose to revise Table 161.12(c) in order to include the MMSI information for two ports and to include updated information pertaining to VTS Port Arthur. First, this rulemaking would update the entry for Louisville and Los Angeles/Long Beach by adding each VTS's MMSI to the table. Second, this rulemaking would update the entry for Port Arthur by adding the designated frequencies and updating its monitoring areas. Finally, this rulemaking would change the entry for Port Arthur from ''Sabine Traffic'' to ''Port Arthur Traffic'' to more accurately reflect the nature of the VTS and add a note to the table that the third monitoring sector for Port Arthur will have limited services until the Coast Guard has the capability to provide full services. This rulemaking would not make any other changes to table 161.12(c).

B. § 161.19 Sailing Plan

This rulemaking would amend 33 CFR 161.19(f) by changing the reference from ''Dangerous Cargo as defined in 33 CFR 160.203'' to ''Certain Dangerous Cargo (CDC) as defined in 33 CFR 160.204.'' In 2003, 33 CFR Subpart C was revised and the definitions were moved from 33 CFR 160.203 to 33 CFR 160.204 (68 FR 9544, February 28, 2003). This rulemaking would also remove the references to § 160.211 and § 160.213 because these sections no longer exist in the CFR. These are administrative changes with no cost impact.

C. § 161.55 Vessel Traffic Service Puget Sound and the Cooperative Vessel Traffic Service for the Juan de Fuca Region

This rulemaking would modify 33 CFR 161.55 by consolidating the two existing VTS Special Areas that are located within the Vessel Traffic Service Puget Sound Area. In addition to consolidating two VTS Special Areas into one, this rulemaking would expand the consolidated VTS Special Area to encompass an additional area of navigational concern that has traditionally been subject to special operating requirements. The existing VTS Special Areas include the waters of Rosario Strait and Guemes Channel. The consolidated VTS Special Area would be slightly expanded to add the nearby waters of Bellingham Bay, western Padilla Bay and the Saddlebag route that is located east of Guemes Island, in the vicinity of Vendovi Island. This single consolidated VTS Special Area would promote maritime safety by applying the VTS Special Operating requirements of 33 CFR 161.13 to certain classes of vessels, defined in 33 CFR 161.16 and 161.55, while transiting the VTS Special Area and by prohibiting those classes of vessels from impeding, meeting, overtaking, crossing, or operating within 2,000 yards of each other (except when crossing astern) while transiting within this VTS Special Area. This proposed rulemaking is in line with current practice and should not result in changes to scheduling, queueing or transit times. Additionally, this proposed rulemaking would make permanent the special operating requirements that VTS Puget Sound has imposed within these areas since the original rules in 33 CFR 161.55 were established in 1994.

D. § 161.70 Vessel Traffic Service Port Arthur

We propose to add a new section that describes the Port Arthur Vessel Traffic Service area. The VTS area consists of the navigable waters south of 30°10′ N, east of 94°20′ W, west of 93°22′ W, and, north of 29°10′ N. This proposed change would establish mandatory participation in the VTS for all applicable vessels.

VI. Regulatory Analyses

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

A. Regulatory Planning and Review

Executive Orders 12866 (''Regulatory Planning and Review'') and 13563 (''Improving Regulation and Regulatory Review'') direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This notice of proposed rulemaking (NPRM) has not been designated a ''significant regulatory action'' under section 3(f) of Executive Order 12866. Accordingly, the NPRM has not been reviewed by the Office of Management and Budget.

A draft Regulatory Assessment follows:

This proposed rule would establish mandatory participation for the VTS area in Port Arthur, Texas and would consolidate and expand the VTS Special Areas in the Puget Sound Area to include Bellingham Channel, western Padilla Bay and the Saddlebag route east of Guemes Island.

The VTS system in Port Arthur was installed in 2004 and became fully operational in February 2006. Currently Port Arthur operates as a voluntary system. The proposed rule would make participation in the VTS mandatory for all vessels that are required to carry AIS equipment.

In 2003, the Coast Guard published a final rule (68 FR 60569, October 22, 2003) that harmonized the AIS carriage and standardization requirements contained in MTSA with the requirements of SOLAS. That prior rule established AIS carriage requirements for commercial vessels (33 CFR 164.46). As a result of this prior regulation, all U.S.-flagged commercial vessels that are required to carry AIS equipment for operation in the VTS under this rule have been in compliance since 2004. Similarly, foreign-flagged vessels have been required to carry AIS equipment under the SOLAS Convention since 2004. Because AIS carriage is required by regulation under 33 CFR 164.46 for commercial vessels, including those vessels that would be affected by this rule, we expect that there would not be additional costs to either industry or government resulting from this rule. A list of the categories of commercial vessels and the dates of compliance for AIS carriage are shown in Table 1.

TABLE 1—COMMERCIAL VESSELS: AIS CARRIAGE REQUIREMENTS

Class of vessel	AIS currently required	Compliance date
Self-propelled vessels 65 feet or more in length in commercial service and on an international voyage (excludes passenger and fishing vessels).	Yes	December 31, 2004.
Passenger vessels of 150 gross tons or more on an international voyage	Yes	July 1, 2003.
Tankers on international voyages, regardless of tonnage	Yes	July 1, 2003.
Vessels of 50,000 gross tons or more, other than tankers or passenger ships, on international voyages.	Yes	July 1, 2004.
Vessels of 300 gross tons or more but less than 50,000 gross tons, other than tankers or passenger ships.	Yes	December 31, 2004.
Self-propelled vessels of 65 feet or more in length in commercial service (excludes fishing vessels and passenger vessels certificated to carry less than 151 passengers for hire).	Yes, when operating in a VTS or VMRS.	December 31, 2004.
Towing vessels 26 feet or more in length and more than 600 horsepower in commercial service.	Yes, when operating in a VTS or VMRS.	December 31, 2004.
Passenger vessels certificated to carry more than 150 passengers for hire	Yes, when operating in a VTS or VMRS.	December 31, 2004.
Fishing vessels	No.	

The principal benefits of changing VTS participation from voluntary to mandatory would be to codify current practices and to provide VTS Port Arthur with full VTS authorities to direct and manage traffic in order to better prevent maritime accidents.

The proposed rule would also consolidate and slightly expand the current VTS Special Area in the VTS Puget Sound area. This requirement expands the zone in which entry into and movement within the special area is controlled by the VTS. These controls, designed principally for collision avoidance, are expected to expedite traffic movement within the special area. The VTS has put operating conditions in place in the proposed consolidated VTS Special Area since the VTS national regulations were established in 1994. The proposed rule would align the regulations with current practices already in place in the consolidated VTS Special Area and would not result in additional requirements placed upon vessels.

Due to the constricted waters within the San Juan Islands, special operating requirements have been instituted since the National VTS Regulations were first implemented in 1994 to avoid the risk of large vessels meeting, overtaking or crossing in this inherently dangerous navigational area. Vessel Traffic Service Puget Sound has consistently issued measures or directions to enhance navigation and vessel safety by imposing special operating requirements for vessels operating in Bellingham Channel, western Padilla Bay, and the Saddlebag route east of Guemes Island and in the vicinity of Vendovi Island due to the comparable restricted nature of these waters. Therefore, it is not anticipated that the expansion of this VTS Special Area would alter vessel operations.

Other minor administrative changes include updating the MMSI for Louisville and Los Angeles/Long Beach in Table 33 CFR 161.12(c). The proposed rule would amend 33 CFR 161.19(f) by changing the reference from ''Dangerous Cargo as defined in 33 CFR 160.203'' to ''Certain Dangerous Cargo (CDC) as defined in 33 CFR 160.204.'' This rulemaking would also remove the references to § 160.211 and § 160.213 because these sections no longer exist in the CFR. We expect these administrative changes to result in no additional costs to the public or industry.

B. 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.

As previously discussed, the AIS carriage requirements were implemented by a prior regulation in 33 CFR 164.46, and all vessels which would be required to participate in the VTS are currently equipped to follow the regulations of their individual VTS areas. In addition, the consolidation and slight expansion of the VTS Special Area in Puget Sound merely codifies current operational practices, and would result in no additional equipment requirements. As a result, we expect that this proposed rule would not impose additional costs on vessel owners and operators transiting within either the Port Arthur or Puget Sound VTS areas.

Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule, if promulgated, will 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.

C. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please consult LCDR Patricia Springer at 202–372–2576, email *Patricia.J.Springer@uscg.mil*. The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

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).

D. Collection of Information

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). Vessels affected by this rule would already be covered under OMB collection of information 1625–0112.

E. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

We have analyzed this proposed rule under that Order and have determined that it has implications for federalism. A summary of the impact of federalism in this rule follows.

Title I of the Ports and Waterways Safety Act (PWSA) (33 U.S.C. 1221 *et. seq.*) authorizes the Secretary to issue regulations to establish and maintain vessel traffic services consisting of measures for controlling or supervising vessel traffic to protect the marine environment. In enacting the PWSA in 1972, Congress declared that advance planning and consultation with the affected States and other stakeholders is necessary when developing measures for the control or supervision of vessel traffic or for protecting navigation or the marine environment. Throughout the development of each of the subject VTSs the Coast Guard has consulted with the pertinent state and/or local government entities as well as the affected pilot's associations, vessel operators, VTS users, and all affected stakeholders. This interaction is more fully described elsewhere in this document.

The Coast Guard has determined, after considering the factors developed by the Supreme Court in the consolidated cases of *United States* v. *Locke* and *Intertanko* v. *Locke,* 529 U.S. 89, 120 S.Ct. 1135 (March 6, 2000), that by enacting Chapter 25 of the Ports and Waterways Safety Act, Congress intended to preempt the field of vessel traffic services in United States ports and waterways. Therefore, the regulations proposed in this rulemaking have preemptive impact over any State laws or regulations that may be enacted on the same subject matter. The preemptive impact of this rule is codified in 33 CFR 161.6.

While it is well settled that States may not regulate in categories in which Congress intended the Coast Guard to be the sole source of a vessel's obligations, the Coast Guard recognizes the key role that State and local governments may have in making regulatory determinations. Additionally, Sections 4 and 6 of Executive Order 13132 require that for any rules with preemptive effect, the Coast Guard will provide elected officials of affected State and local governments and their representative national organizations, notice and opportunity for appropriate participation in any rulemaking proceedings, and to consult with such officials early in the rulemaking process.

Therefore, the Coast Guard invites affected State and local governments and their representative national organizations to indicate their desire for participation and consultation in this rulemaking process by submitting comments to this NPRM. In accordance with Executive Order 13132, the Coast Guard will provide a federalism impact statement to document: (1) The extent of the Coast Guard's consultation with State and local officials who submit comments to this proposed rule; (2) a summary of the nature of any concerns raised by State or local governments and the Coast Guard's position thereon; and (3) a statement of the extent to which the concerns of State and local officials have been met. We will also report to the Office of Management and Budget any written communications with the States.

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

G. Taking of Private Property

This proposed rule would 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 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.

I. 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.

J. Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

K. Energy Effects

We have analyzed this 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.

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

M. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023–01

and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. A preliminary environmental analysis checklist supporting this determination is available in the docket where indicated under the ''Public Participation and Request for Comments'' section of this preamble. This rule is categorically excluded under section 2.B.2., figure 2–1, paragraphs 34(a) and (i) of the Instruction. This rule involves administrative changes, changing regulations in aid of navigation, and updating vessel traffic services. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

List of Subjects in 33 CFR Part 161

Harbors, Navigation (water), Reporting and recordkeeping requirements, Vessels, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 161 as follows:

PART 161—VESSEL TRAFFIC MANAGEMENT

1. The authority citation for part 161 continues to read as follows:

Authority: 33 U.S.C. 1223, 1231; 46 U.S.C. 70114, 70119; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

2. In § 161.12, revise Table 161.12(c) to read as follows:

§ 161.12 Vessel operating requirements.

* * * * *

TABLE 161.12(c)—VTS AND VMRS CENTERS, CALL SIGNS/MMSI, DESIGNATED FREQUENCIES, AND MONITORING AREAS

Center MMSI [1] call sign	Designated frequency (channel designation)—purpose [2]	Monitoring area [3,4]
Berwick Bay—003669950:		
Berwick Traffic	156.550 MHz (Ch. 11)	The waters south of 29°45′ N., west of 91°10′ W., north of 29°37′ N., and east of 91°18′ W.
Buzzards Bay:		
Buzzards Bay Control [5]	156.600 MHz (Ch. 12)	The waters east and north of a line drawn from the southern tangent of Sakonnet Point, Rhode Island, in approximate position latitude 41°27.2′ N., longitude 70°11.7′ W., to the Buzzards Bay Entrance Light in approximate position latitude 41°23.5′ N., longitude 71°02.0′ W., and then to the southwestern tangent of Cuttyhunk Island, Massachusetts, at approximate position latitude 41°24.6′ N., longitude 70°57.0′ W., and including all of the Cape Cod Canal to its eastern entrance, except that the area of New Bedford harbor within the confines (north of) the hurricane barrier, and the passages through the Elizabeth Islands, is not considered to be ''Buzzards Bay''.
Houston-Galveston—003669954.		The navigable waters north of 29° N., west of 94°20′ W., south of 29°49′ N., and east of 95°20′ W.
Houston Traffic	156.550 MHz (Ch. 11) 156.250 MHz (Ch. 5A)—For Sailing Plans only	The navigable waters north of a line extending due west from the southernmost end of Exxon Dock #1 (20°43.37′ N., 95°01.27′ W.).
Houston Traffic	156.600 MHz (Ch. 12) 156.250 MHz (Ch. 5A)—For Sailing Plans only	The navigable waters south of a line extending due west from the southernmost end of Exxon Dock #1 (29°43.37′ N., 95°01.27′ W.).
Los Angeles-Long Beach—03660465:		
San Pedro Traffic	156.700 MHz (Ch. 14)	*Vessel Movement Reporting System Area:* The navigable waters within a 25 nautical mile radius of Point Fermin Light (33°42.3′ N., 118°17.6′ W.).
Louisville—003669732:		
Louisville Traffic	156.650 MHz (Ch. 13)	The waters of the Ohio River between McAlpine Locks (Mile 606) and Twelve Mile Island (Mile 593), only when the McAlpine upper pool gauge is at approximately 13.0 feet or above.
Lower Mississippi River—0036699952:		
New Orleans Traffic	156.550 MHz (Ch. 11)	The navigable waters of the Lower Mississippi River below 29°55.3′ N., 089°55.6′ W. (Saxonholm Light) at 86.0 miles Above Head of Passes (AHP), extending down river to Southwest Pass, and, within a 12 nautical mile radius around 28°54.3′ N. 089°25.7′ W. (Southwest Pass Entrance Light at 20.1 miles Below Head of Passes.
New Orleans Traffic	156.600 MHz (Ch.12)	The navigable waters of the Lower Mississippi River bounded on the north by a line drawn perpendicular on the river at 29°55′30″ N., and 090°12′46″ W. (Upper Twelve Mile Point) at 109.0 miles AHP and on the south by a line drawn perpendicularly at 29°55.3′ N. 089°55.6′ W. (Saxonholm Light) at 86.0 miles AHP.
New Orleans Traffic	156.250 MHz (Ch. 05A)	The navigable waters of the Lower Mississippi River below 30°38.7′ N. 091°17.5′ W. (Port Hudson Light) at 254.5 miles AHP bounded on the south by a line drawn perpendicular on the river at 29°55′30″ N., and 090°12′46″ W., (Upper Twelve Mile Point) at 109.0 miles AHP.
New York—003669951:		

TABLE 161.12(c)—VTS AND VMRS CENTERS, CALL SIGNS/MMSI, DESIGNATED FREQUENCIES, AND MONITORING AREAS—Continued

Center MMSI [1] call sign	Designated frequency (channel designation)—purpose [2]	Monitoring area [3,4]
New York Traffic	156.550 MHz (Ch. 11) —For Sailing Plans only 156.600 MHz (Ch. 12) —For vessels at anchor	The area consists of the navigable waters of the Lower New York Bay bounded on the east by a line drawn from Norton Point to Breezy Point; on the south by a line connecting the entrance buoys at the Ambrose Channel, Swash Channel, and Sandy Hook Channel to Sandy Hook Point; and on the southeast including the waters of Sandy Hook Bay south to a line drawn at latitude 40°25′ N.; then west in the Raritan Bay to the Raritan River Railroad Bridge, then north into waters of the Arthur Kill and Newark Bay to the Lehigh Valley Draw Bridge at latitude 40°41.9′ N.; and then east including the waters of the Kill Van Kull and the Upper New York Bay north to a line drawn east-west from the Holland Tunnel ventilator shaft at latitude 40°43.7′ N., longitude 74°01.6′ W., in the Hudson River; and then continuing east including the waters of the East River to the Throgs Neck Bridge, excluding the Harlem River.
New York Traffic	156.700 MHz (Ch. 14)	The navigable waters of the Lower New York Bay west of a line drawn from Norton Point to Breezy Point; and north of a line connecting the entrance buoys of Ambrose Channel, Swash Channel, and Sandy Hook Channel, to Sandy Hook Point; on the southeast including the waters of the Sandy Hook Bay south to a line drawn at latitude 40°25′ N.; then west into the waters of Raritan Bay East Reach to a line drawn from Great Kills Light south through Raritan Bay East Reach LGB #14 to Comfort PT, NJ; then north including the waters of the Upper New York Bay south of 40°42.40′ N. (Brooklyn Bridge) and 40°43.70′ N. (Holland Tunnel Ventilator Shaft); west through the KVK into the Arthur Kill north of 40°38.25′ N. (Arthur Kill Railroad Bridge); then north into the waters of the Newark Bay, south of 40°41.95′ N. (Lehigh Valley Draw Bridge).
New York Traffic	156.600 MHz (Ch. 12)	The navigable waters of the Raritan Bay south to a line drawn at latitude 40°26′ N.; then west of a line drawn from Great Kills Light south through the Raritan Bay East Reach LGB #14 to Point Comfort, NJ; then west to the Raritan River Railroad Bridge; and north including the waters of the Arthur Kill to 40°28.25′ N. (Arthur Kill Railroad Bridge); including the waters of the East River north of 40°42.40′ N. (Brooklyn Bridge) to the Throgs Neck Bridge, excluding the Harlem River.
Port Arthur—003669955:		
Port Arthur Traffic	156.050 MHz (Ch. 01A)	The navigable waters of the Sabine-Neches Canal south of 29°52.7′ N.; Port Arthur Canal; Sabine Pass Channel; Sabine Bank Channel; Sabine Outer Bar Channel; the offshore safety fairway; and the ICW from High Island to its intersection with the Sabine-Neches Canal.
Port Arthur Traffic	156.275 MHz (Ch. 65A)	The navigable waters of the Neches River; Sabine River; and Sabine-Neches Waterway north of 29°52.7′ N.; and the ICW from its intersection with the Sabine River to MM 260.
Port Arthur Traffic	156.675 MHz (Ch. 73) [6]	The navigable waters of the Calcasieu Channel; Calcasieu River Channel; and the ICW from MM 260 to MM 191.
Prince William Sound—003669958:		
Valdez Traffic	156.650 MHz (CH. 13)	The navigable waters south of 61°05′ N., east of 147°20′ W., north of 60° N., and west of 146°30′ W.; and, all navigable waters in Port Valdez.
Puget Sound: [7]		
Seattle Traffic—003669957.	156.700 MHz (Ch. 14)	The waters of Puget Sound, Hood Canal and adjacent waters south of a line connecting Nodule Point and Bush Point in Admiralty Inlet and south of a line drawn due east from the southernmost tip of Possession Point on Whidbey Island to the shoreline.
Seattle Traffic—003669957.	156.250 MHz (Ch. 5A)	The waters of the Strait of Juan de Fuca east of 124°40′ W. excluding the waters in the central portion of the Strait of Juan de Fuca north and east of Race Rocks; the navigable waters of the Strait of Georgia east of 122°52′ W.; the San Juan Island Archipelago, Rosario Strait, Bellingham Bay; Admiralty Inlet north of a line connecting Nodule Point and Bush Point and all waters east of Whidbey Island North of a line drawn due east from the southernmost tip of Possession Point on Whidbey Island to the shoreline.
Tofino Traffic—003160012.	156.725 MHz (Ch. 74)	The waters west of 124°40′ W. within 50 nautical miles of the coast of Vancouver Island including the waters north of 48° N., and east of 127° W.
Victoria Traffic—003160010.	156.550 MHz (Ch. 11)	The waters of the Strait of Georgia west of 122°52′ W., the navigable waters of the central Strait of Juan de Fuca north and east of Race Rocks, including the Gulf Island Archipelago, Boundary Pass and Haro Strait.
San Francisco—003669956:		
San Francisco Traffic	156.700 MHz (Ch. 14)	The navigable waters of the San Francisco Offshore Precautionary Area, the navigable waters shoreward of the San Francisco Offshore Precautionary Area east of 122°42.0′ W. and north of 37°40.0′ N. extending eastward through the Golden Gate, and the navigable waters of San Francisco Bay and as far east as the port of Stockton on the San Joaquin River, as far north as the port of Sacramento on the Sacramento River.

TABLE 161.12(c)—VTS AND VMRS CENTERS, CALL SIGNS/MMSI, DESIGNATED FREQUENCIES, AND MONITORING AREAS—Continued

Center MMSI [1] call sign	Designated frequency (channel designation)—purpose [2]	Monitoring area [3,4]
San Francisco Traffic	156.600 MHz (Ch. 12)	The navigable waters within a 38 nautical mile radius of Mount Tamalpais (37°55.8′ N., 122°34.6′ W.) west of 122°42.0′ W. and south of 37°40.0′ N. and excluding the San Francisco Offshore Precautionary Area.
St. Marys River—003669953: *Soo Traffic*	156.600 MHz (Ch. 12)	The waters of the St. Marys River between 45°57′ N. (De Tour Reef Light) and 46°38.7′ N. (Ile Parisienne Light), except the St. Marys Falls Canal and those navigable waters east of a line from 46°04.16′ N. and 46°01.57′ N. (La Pointe to Sims Point in Potagannissing Bay and Worsley Bay).

Notes:

[1] Maritime Mobile Service Identifier (MMSI) is a unique nine-digit number assigned that identifies ship stations, ship earth stations, coast stations, coast earth stations, and group calls for use by a digital selective calling (DSC) radio, an INMARSAT ship earth station or AIS. AIS requirements are set forth in §§ 161.21 and 164.46 of this subchapter. The requirements set forth in §§ 161.21 and 164.46 of this subchapter apply in those areas denoted with an MMSI number.

[2] In the event of a communication failure, difficulties or other safety factors, the Center may direct or permit a user to monitor and report on any other designated monitoring frequency or the bridge-to-bridge navigational frequency, 156.650 MHz (Channel 13) or 156.375 MHz (Channel 67), to the extent that doing so provides a level of safety beyond that provided by other means. The bridge-to-bridge navigational frequency, 156.650 MHz (Ch. 13) is used in certain monitoring areas where the level of reporting does not warrant a designated frequency.

[3] All geographic coordinates (latitude and longitude) are expressed in North American Datum of 1983 (NAD 83).

[4] Some monitoring areas extend beyond navigable waters. Although not required, users are strongly encouraged to maintain a listening watch on the designated monitoring frequency in these areas. Otherwise, they are required to maintain watch as stated in 47 CFR 80.148.

[5] In addition to the vessels denoted in Section 161.16 of this chapter, requirements set forth in subpart B of 33 CFR part 161 also apply to any vessel transiting VMRS Buzzards Bay required to carry a bridge-to-bridge radiotelephone by part 26 of this chapter.

[6] Until otherwise directed, full VTS services will not be available in the Calcasieu Channel, Calcasieu River Channel, and the ICW from MM 260 to MM 191. Vessels may contact Port Arthur Traffic on the designated VTS frequency to request advisories, but are not required to monitor the VTS frequency in this sector.

[7] A Cooperative Vessel Traffic Service was established by the United States and Canada within adjoining waters. The appropriate Center administers the rules issued by both nations; however, enforces only its own set of rules within its jurisdiction. Note, the bridge-to-bridge navigational frequency, 156.650 MHz (Ch. 13), is not so designated in Canadian waters, therefore users are encouraged and permitted to make passing arrangements on the designated monitoring frequencies.

* * * * *

3. In § 161.19, revise paragraph (f) to read as follows:

§ 161.19 Sailing Plan (SP).

* * * * *

(f) Certain dangerous cargo on board or in its tow, as defined in § 160.204 of this chapter.

4. In § 161.55, revise paragraph (b) and paragraph (c) introductory text to read as follows:

§ 161.55 Vessel Traffic Service Puget Sound and the Cooperative Vessel Traffic Service for the Juan de Fuca Region.

* * * * *

(b) VTS Special Area: The Eastern San Juan Island Archipelago VTS Special Area consists of all waters of the eastern San Juan Island Archipelago including: Rosario Strait bounded to the south by latitude 48°26′24″ N. (the center of the Precautionary Area ''RB'') extending from Lopez Island to Fidalgo Island, and to the north by latitude 48°40′34″ N. (the center of the Precautionary Area ''C'') extending from Orcas Island to Lummi Island; Guemes Channel; Bellingham Channel; Padilla Bay and southern Bellingham Bay (Samish Bay) south of latitude 48°38′25″ N.

Note: The center of precautionary area ''R.B.'' is not marked by a buoy. All precautionary areas are depicted on National Oceanic and Atmospheric Administration (NOAA) nautical charts.

(c) Additional VTS Special Area Operating Requirements. The following additional requirements are applicable in the Eastern San Juan Island Archipelago VTS Special Area:

* * * * *

5. Add § 161.70 to read as follows:

§ 161.70 Vessel Traffic Service Port Arthur.

(a) The VTS area consists of the navigable waters of the U.S. to the limits of the territorial seas bound by the following points: 30°10′ N. 92°37′ W., then south to 29°10′ N. 92°37′ W., then west to 29°10 N. 93°52′15″ W., then northwest to 29°33′42″ N. 94°21′15″ W., then north to 30°10′ N. 94°21′15″ W. then east along the 30°10′ E. latitude to the origination point.

Note: Although mandatory participation in VTS Port Arthur is limited to the area within the navigable waters of the United States, prospective users are encouraged to report at the safe water marks in order to facilitate vessel traffic management in the VTS Area and to receive advisories or navigational assistance.

(b) Precautionary areas.

TABLE 161.70(b)—VTS PORT ARTHUR PRECAUTIONARY AREAS

Precautionary area name	Radius	Center point latitude	Center point longitude
Petco Bend [1]	2,000	30°00.80′ N.	093°57.60′ W.
Black Bayou [1]	2,000	30°00.00′ N.	093°46.20′ W.
Orange Cut [1]	2,000	30°03.25′ N.	093°43.20′ W.
Neches River Intersection [1]	2,000	29°58.10′ N.	093°51.25′ W.
Texaco Island Intersection [1]	2,000	29°49.40′ N.	094°57.55′ W.

TABLE 161.70(b)—VTS PORT ARTHUR PRECAUTIONARY AREAS—Continued

Precautionary area name	Radius	Center point latitude	Center point longitude
Sabine-Neches Waterway	N/A	All waters of the Sabine-Neches Waterway between the Texaco Island Precautionary Area and the Humble Island Precautionary Area.	

[1] Precautionary Area encompasses a circular area of the radius denoted around the center point with the exception of the Sabine-Neches Waterway.

(c) Reporting points (Inbound).

TABLE 161.70(c)—INBOUND

Designator	Geographic name	Geographic description	Latitude/Longitude	Notes
1	Sabine Bank Channel "SB" Buoy	Sabine Bank Sea Buoy	29°25.00′ N., 093°40.00′ W.	Sailing Plan Report.
2	Sabine Pass Buoys "29/30"	Sabine Pass Buoys "29/30"	29°35.90′ N., 093°48.20′ W.	
3	Port Arthur Canal Light "43"	Keith Lake	29°46.50′ N., 093°56.47′ W.	
4	North Forty GIWW Mile 279	North Forty	29°56.40′ N., 093°52.10′ W.	
5	FINA Highline Neches River Light "19".	FINA Highline	29°59.10′ N., 093°54.30′ W.	
6	Ready Reserve Fleet Highline	Channel at Cove Mid-Point	30°00.80′ N., 093°59.90′ W.	
7	Sabine River MM 268	268 Highline	30°02.20′ N., 093°44.30′ W.	

(d) Reporting points (Outbound).

TABLE 161.70(d)—OUTBOUND

Designator	Geographic name	Geographic description	Latitude/Longitude	Notes
1	Sabine River Light "2"	Black Bayou	30°00.00′ N., 093°46.25′ W.	
2	Ready Reserve Fleet Highline	Channel at Cove Mid-Point	30°00.80′ N., 093°59.90′ W.	
3	FINA Highline Neches River Light "19".	FINA Highline	29°59.09′ N., 093°54.30′ W.	
4	GIWW Mile 285	The School House	29°52.70′ N., 093°55.55′ W.	*Sector Shift.*
5	Port Arthur Canal Light "43"	Keith Lake	29°46.50′ N., 093°56.47′ W.	
6	Sabine Pass Buoys "29/30"	Sabine Pass Buoys "29/30"	29°35.90′ N., 093°48.20′ W.	
7	Sabine Bank Channel "SB" Buoy	Sabine Bank Sea Buoy	29°25.00′ N., 093°40.00′ W.	Final Report.

(e) Reporting points (Eastbound).

TABLE 161.70(e)—EASTBOUND (ICW)

Designator	Geographic name	Geographic description	Latitude/Longitude	Notes
1	GIWW Mile 295	ICW MM 295	29°47.25′ N., 094°01.10′ W.	Sailing Plan Report.
2	North Forty GIWW Mile 279	North Forty	29°56.40′ N., 093°52.10′ W.	
3	Sabine River MM 268	268 Highline	30°02.20′ N., 093°44.30′ W.	
4	GIWW Mile 260	260 Highline	30°03.50′ N., 093°37.50′ W.	Final Report.

(f) Reporting points (Westbound).

TABLE 161.70(f)—WESTBOUND (ICW)

Designator	Geographic name	Geographic description	Latitude/Longitude	Notes
1	GIWW Mile 260	260 Highline	30°03.50′ N., 093°37.50′ W.	Sailing Plan Report.
2	Sabine River Light "2"	Black Bayou	30°00.03′ N., 093°46.18′ W.	
3	GIWW Mile 285	The School House	29°52.71′ N., 093°55.55′ W.	*Sector Shift.*
4	GIWW Mile 295	ICW MM 295	29°46.20′ N., 094°02.60′ W.	Final Report.

(g) Reporting points (Offshore Safety Fairway).

TABLE 161.70(g)—OFFSHORE SAFETY FAIRWAY

Designator	Geographic name	Geographic description	Latitude/Longitude	Notes
1	Sabine Pass Safety Fairway—East ..	East Dogleg	29°35.00′ N., 093°28.00′ W.	
2	Sabine Pass Safety Fairway—West	West Dogleg	29°28.00′ N., 093°58.00′ W.	

Dated: September 4, 2012.

Mark E. Butt,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Capability.

[FR Doc. 2012–22164 Filed 9–7–12; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 120718253–2367–01]

RIN 0648–BC30

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Fishery off the Southern Atlantic States; Transferability of Black Sea Bass Pot Endorsements

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes regulations to implement a revision of a disapproved action from Amendment 18A (the Resubmittal) to the Fishery Management Plan (FMP) for the Snapper-Grouper Fishery of the South Atlantic Region (Amendment 18A), as prepared and submitted by the South Atlantic Fishery Management Council (Council). If implemented, this rule would allow black sea bass pot endorsements to be transferred under specific conditions. The intent of this rule is to implement the transferability action originally submitted in Amendment 18A, as clarified in the Resubmittal.

DATES: Written comments must be received on or before September 25, 2012.

ADDRESSES: You may submit comments on the proposed rule identified by ''NOAA–NMFS–2012–0128'' by any of the following methods:

- *Electronic Submissions:* Submit electronic comments via the Federal e-Rulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Kate Michie, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.

Instructions: All comments received are a part of the public record and will generally be posted to *http://www.regulations.gov* without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

To submit comments through the Federal e-Rulemaking Portal: *http://www.regulations.gov,* enter ''NOAA–NMFS–2012–0128'' in the search field and click on ''search''. After you located the proposed rule, click on ''Submit a Comment'' link in that row. This will display the comment web form. You can enter your submitter information (unless you prefer to remain anonymous), and type your comment on the web form. You can also attach additional files (up to 10MB) in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

Comments received through means not specified in this rule will not be considered.

For further assistance with submitting a comment, see the ''Commenting'' section at *http://www.regulations.gov/#!faqs* or the Help section at *http://www.regulations.gov.*

Electronic copies of Amendment 18A and the Resubmittal may be obtained from the Southeast Regional Office Web site at *http://sero.nmfs.noaa.gov/sf/SASnapperGrouperHomepage.htm.* Amendment 18A includes an Environmental Impact Statement (EIS), an Initial Regulatory Flexibility Act Analysis (IRFA), a Regulatory Impact Review, and a Fishery Impact Statement. The Resubmittal includes a RIR and a FIS.

FOR FURTHER INFORMATION CONTACT: Kate Michie, 727–824–5305.

SUPPLEMENTARY INFORMATION: The snapper-grouper fishery of the South Atlantic is managed under the FMP. The FMP was prepared by the Council and is implemented through regulations at 50 CFR Part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

Background

Amendment 18A, implemented through final rulemaking on July 1, 2012, (77 FR 32408, June 1, 2012), includes a provision to limit participation in the black sea bass pot segment of the snapper-grouper fishery through the establishment of an endorsement program. In order to qualify for a black sea bass pot endorsement, an entity must have held a valid South Atlantic snapper-grouper unlimited permit on the effective date of the final rule implementing Amendment 18A (or July 1, 2012). In addition to this requirement, qualifying permit holders must have had average annual black sea bass landings of at least 2,500 lb (1,134 kg), round weight, using black sea bass pot gear between January 1, 1999 and December 31, 2010. Those permit holders with no reported commercial landings of black sea bass using black sea bass pot gear between January 1, 2008, and December 31, 2010, did not qualify for an endorsement. The number of South Atlantic snapper-grouper unlimited permit holders that meet these criteria as of September 10, 2012 is 32, and more endorsements could be issued after the appeals process finalizes. Only those vessels associated with a valid endorsement can legally fish for black sea bass in the South Atlantic using black sea bass pot gear.

Amendment 18A also contained an action to allow for the transfer of black sea bass pot endorsements. However, NMFS disapproved this action because Amendment 18A and the supporting EIS incorrectly described the preferred alternative as allowing transfer of landings history without transfer of the permit. However, the following analysis of alternatives applied a correct understanding of what the preferred alternative was, i.e. that landings history would not be transferred independently of the permit. Therefore, NMFS disapproved that measure, and the Council revised and resubmitted the action addressing transferability of black sea bass pot endorsements in an amendment (the Resubmittal). All reasonable alternatives for the transferability action were correctly characterized in the supporting analysis in Amendment 18A pursuant to the National Environmental Policy Act, including biological, economic, social,