

§ 117.160. This error is technical and has been corrected in this final rulemaking.

Economic Assessment and Certification

These final regulations have been reviewed under the provisions of Executive Order 12291 and have been determined not to be major rules. They are considered to be nonsignificant in accordance with guidelines set out in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 22 May 1980). As explained above, an economic evaluation has not been conducted since its impact is expected to be minimal. In accordance with Section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)), it is also certified that these rules will not have a significant economic impact on a substantial number of small entities because no small entities will be affected.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

In consideration of the foregoing, Part 117 of Title 33, Code of Federal Regulations, is amended by revising § 117.160(h) to read as follows:

Part 117—DRAWBRIDGE OPERATION REGULATIONS

§ 117.160 Harlem River, N.Y.; bridges.

(h) The draws of the following bridges shall open on signal from 10 a.m. to 5 p.m. if at least four hours, notice is given to the New York City Highway Radio (Hotline) Room. At all other times these draws need not open for commercial or recreational vessels.

- (1) 103rd Street Bridge, mile 0.0.
- (2) Willis Avenue Bridge, mile 1.5.
- (3) 3rd Avenue Bridge, mile 1.9.
- (4) Madison Avenue Bridge, mile 2.3.
- (5) 145th Street Bridge, mile 2.8.
- (6) Macombs Dam Bridge, mile 3.2.
- (7) 207th Street (University Heights) Bridge, mile 6.0.
- (8) Broadway Bridge, mile 6.8.

The draws shall open at all times as soon as possible for a public vessel of the United States after notification is received at the NYC Highway Radio (Hotline) Room.

[33 U.S.C. 499; 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5); 33 CFR 1.05-1(g)(3)]

Dated: July 22, 1983.

W. E. Caldwell,

*Vice Admiral, U. S. Coast Guard,
Commander, Third Coast Guard District,*

[FR Doc. 83-21921 Filed 8-10-83; 8:45 am]

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33 CFR Part 165

[Third Coast Guard District Regulation
CCGD 3-83-34]

Safety Zone Regulations; New Jersey, New York Harbor, Newark Bay

AGENCY: Coast Guard, DOT.

ACTION: Emergency rule.

SUMMARY: The Coast Guard is establishing a safety zone in New Jersey, New York Harbor, Newark Bay. This zone is needed to protect vessels from the safety hazards associated with the demolition of the CNJ Newark Bay Bridge. Entry into this zone is prohibited unless authorized by the Captain of the Port.

EFFECTIVE DATES: This regulation is effective at 12:00 PM E.D.S.T. 22 July 1983 and terminates upon completion of the current demolition of the work being done on the CNJ Newark Bay Bridge, with the Zone to be terminated no later than 1 November 1983.

FOR FURTHER INFORMATION CONTACT: Lt. J. M. Collin, (212) 668-7917.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking was not published for this regulation and it is being made effective in less than 30 days after Federal Register publication. Publishing an NPRM and delaying its effective date would be contrary to public interest since immediate action is needed to respond to any potential hazards.

Drafting Information

The drafters of this regulation are Lieutenant G. W. Chappell, Project Officer for the Captain of the Port, and Lieutenant Commander J. J. D'Alessandro, Project Attorney, Third Coast Guard District Legal Office.

Discussion of Regulation

The circumstances requiring this regulation result from the potential hazards to navigation associated with the demolition operation on the CNJ Newark Bay Bridge.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Security measures, Vessels, Waterways.

Regulation

In consideration of the foregoing, Part 165 of Title 33, Code of Federal Regulations, is amended by adding § 165-T-03-364 to read as follows:

PART 165—[AMENDED]

§ 165-T-03-364 Safety Zone: New Jersey, New York Harbor, Newark Bay South Reach.

(a) *Location.* The following area is a Safety Zone: the waters within a boundary extending from the Newark Bay Lighted Buoy "4B" in position 40°39'19.3" N., 74°08'44" W., thence east on a course of 090 degrees true a distance of approximately 145 yards to position 40°39'19.3" N., 74°08'40" W., thence southwest on a course of 200 degrees true a distance of 230 yards to position 40°39'13" N., 74°08'43" W., thence west on a course of 270 degrees true a distance of approximately 145 yards to the Newark Bay Channel Buoy "4A" in position 40°39'13" N., 74°08'47.2" W., thence north on a course of 022 degrees true to the starting point.

(b) *Regulations.* (1) In accordance with the general regulations in 165.23 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port.

(33 U.S.C. 1225 and 1231; 49 CFR 1.46; 33 CFR 165.3)

Dated: July 22, 1983.

J. L. McDonald,

Captain, U.S. Coast Guard; Captain of the Port, New York.

[FR Doc. 83-21926 Filed 8-10-83; 8:45 am]

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33 CFR Part 167

[CGD 81-080]

Parts and Waterways Safety; Offshore Traffic Separation Schemes; Galveston Bay

AGENCY: Coast Guard, DOT.

ACTION: Final Rule.

SUMMARY: This final regulation establishes a traffic separation scheme (TSS) for the approaches to Galveston Bay. The TSS is designed to increase navigation safety by separating opposing inbound and outbound lanes of vessel traffic. The scheme is necessary because of severe traffic congestion and recent vessel casualties in the Galveston approach area. This TSS was developed in accordance with the Ports and Waterways Safety Act (33 U.S.C. 1223) "to provide safe access routes for movement of vessel traffic." It was formally adopted by the Maritime Safety

Committee of the International Maritime Organization (IMO) in June 1983.

New Part 167 also contains general rules which will apply to future offshore TSS's developed for U.S. ports under the Ports and Waterways Safety Act. These general rules are needed because Coast Guard regulations do not currently define offshore traffic separation schemes. It is also anticipated that other TSS's will be promulgated, or existing TSS's will be significantly modified and added to this new Part 167.

EFFECTIVE DATE: The effective date of this regulation is January 1, 1984.

FOR FURTHER INFORMATION CONTACT: Mr. Christopher Young, Project Manager, Office of Navigation, Room 1606, U.S. Coast Guard, 2100 2nd St., S.W., Washington, D.C. 20593, (202) 245-0108.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking was published on June 17, 1982 (47 FR 26167). A correction of a typographical error in one of the geographical positions was published on June 28, 1982 (47 FR 27870). Interested persons were given until August 16, 1982, to submit comments. A public hearing was not held on this matter.

Drafting Information

The principal persons involved in drafting this rulemaking are Mr. Christopher Young, Project Manager, Office of Navigation, and Lieutenant Mark Hanlon, Project Attorney, Office of Chief Counsel.

Discussion of Comments

Comments were received from 20 sources. Three commenters were neutral on whether a traffic separation scheme was appropriate for the approaches to Galveston Bay (the Minerals Management Service in the Department of the Interior; Shell Offshore, Inc.; and the Associated Branch Pilots from the Lower Mississippi River). The other seventeen were strongly in favor of the TSS. There were no negative comments on the TSS, though several commenters had suggestions on how the approaches to Galveston could be improved. However, many of these recommendations were beyond the scope of this rulemaking. They are identified below and will be analyzed in another forum such as the Houston/Galveston Navigation Safety Advisory Committee. The Committee held its first meeting on October 16 1982, and was presented with many of the items

brought up by the commenters on this rulemaking. The comments can be classified under the following subjects:

New Chart

Three commenters noted the difficulty of having to plot the TSS on two separate navigation charts (National Ocean Survey 11332 and 11323). The Coast Guard agrees that there is a need for a single chart encompassing the approaches to Galveston. Having to switch charts in the middle of a difficult piloting situation is certainly not conducive to safety. The correction of this problem is not within the jurisdiction of the Coast Guard. The National Ocean Survey is currently preparing a new chart (to be numbered 11330) which will cover the coastline from Freeport to Calcasieu and will eventually include the designated TSS lanes. The new chart may not be available until mid 1984.

Aids to Navigation

Several commenters expressed concern about the buoyage system to be used in the TSS, and the aids on the structures near the TSS. Tentatively, the Eighth Coast Guard District, which is responsible for the aids in the Galveston area, plans to provide six buoys in the center of the separation zone at the following geographical positions:

"GB"—29°10'03"N., 94°27'25"W.

"GC"—29°11'24"N., 94°29'03"W.

"GD"—29°12'46"N., 94°30'40"W.

"GE"—29°14'07"N., 94°32'18"W.

"GF"—29°15'29"N., 94°33'55"W.

"GG"—29°16'50"N., 94°35'33"W.

The buoys will be yellow colored with yellow flashing lights and will mark the centerline of the separation zone. However, it is to be emphasized that this is a tentative arrangement, subject to change based on the wide variety of factors involved in the design of the buoyage system.

As for aids on structures located near the traffic lanes, every offshore structure is expected to be in compliance with the appropriate regulations (contained in 33 CFR Part 67) and this rulemaking is not considered the proper vehicle for altering those requirements.

One commenter recommended that the Sea Buoy ("GA") be moved to be in line with the separation zone. The Eighth Coast Guard District will be evaluating the locations of all aids associated with the TSS. Decisions as to the relocation of existing aids are not final at this time.

Once all of the buoys are in place in the center of the separation zone, the

Coast Guard will issue a Notice to Mariners recommending that vessel traffic voluntarily begin complying with lane directions pending the final effective date of the TSS under IMO guidelines. The IMO has said that the scheme can become effective "only after adequate centre (sic.) line marking of the separation zone by buoys has been established."

Definitions

One commenter noted that the definitions used in the proposed rules differed from the formal IMO definitions for the same terms such as "traffic lane" and "precautionary area". The Coast Guard's intent in the NPRM was to use clear and simple definitions which would still be perfectly compatible with the IMO definitions. But the Coast Guard agrees that there would be less doubt about the identical nature of the TSS in U.S. and IMO rulemaking if the definitions are worded the same way. Therefore, § 167.05 has been rewritten. This does not make any change in the intent or meaning of the regulations.

The same commenter asked that the distinction between shipping safety fairways and traffic separation schemes be made more clear in the preamble to the final rule. The distinction is especially significant in the case of the Galveston TSS because it will overlay an existing fairway. In general, a fairway (as defined in 33 CFR 168.105(a), published on June 30, 1983, at 48 FR 30110) is "an area in which no structures, temporary or permanent will be permitted". This is intended to provide vessel traffic with an area free of obstructions. However, the existence of a shipping safety fairway is not intended to alter the applicable navigation rules. Vessels are expected to obey international navigation rule (72 COLREGS) while using offshore safety fairways. A safety fairway would be the appropriate routing measure in areas which are subject to potential offshore development in conflict with heavy vessel traffic.

On the other hand, a traffic separation scheme is used to organize congested traffic by designating directional lanes and by imposing 72 COLREGS Rule 10 on vessels operating in the area. Although the IMO guidelines on TSS's say that "as far as practicable" structures are not to be established in designated TSS's, there is no strict rule in U.S. regulations. Therefore, because the approach to Galveston is subject to both offshore development and heavy

traffic congestion, the two measures will work together to provide a safer access route into Galveston.

Several commenters had concerns which involved the characteristics of a fairway rather than those of the TSS. For instance, one letter asked that the Coast Guard keep structures at least 500 feet from the edge of the TSS. However, the dimensions of the fairway are already fixed by the existence of structures along the edge. Also, it is the Corps of Engineers rather than the Coast Guard which has the authority to prohibit structures outside of the fairway boundaries. The alternative is for the Coast Guard to decrease the width of the traffic lanes by 500 yards to create a "buffer"; but that loss of lane space does not seem to be warranted where the entire scheme is identified as being an obstruction-free fairway.

Another concern raised by a commenter which should be addressed through the fairway regulations rather than the TSS regulations is the issue of pipeline burial standards. The Coast Guard will be reviewing the current pipeline burial practices in offshore fairways to determine whether regulations would contribute to navigation safety.

One commenter petitioned for an increase in the fairway area seaward of the TSS and for management of traffic in the Galveston Entrance Channel by use of auxiliary channels if the deep draft channel in the separation zone becomes operational. These comments fall beyond the scope of the NPRM and they will be evaluated by the Eighth Coast Guard District for further action.

Effective Date

One commenter was concerned that the TSS might be imposed on U.S. mariners before it is adopted internationally by IMO. As mentioned in the NPRM (47 FR 26168), the Coast Guard intends that the U.S. regulations for the TSS in the approach to Galveston Bay become effective simultaneously with the international effective date approved under IMO procedures.

At the 48th Session of the IMO Maritime Safety Committee which was held in London in June 1983, the Galveston TSS was formally adopted with an effective date not earlier than November 17, 1983. The six months delay between the adoption and the effective date is to permit hydrographic offices around the world to enter the TSS on appropriate charts. If unforeseen delays occur, and the separation zone buoys are not in place prior to January 1, 1984, the effective date of the scheme will be postponed.

Scheme Description

In compliance with a request from the IMO Subcommittee on Safety of Navigation in October 1982, the geographical coordinates for describing the TSS were changed from degrees, minutes and seconds to degrees, minutes and decimals of minutes. The same change has been made in this rulemaking to ensure that the IMO and CFR descriptions are identical. No significant change to the description of the scheme results from the use of decimals.

Additional Regulation of Vessel Traffic

Three commenters requested that the Coast Guard impose strict rules on the operations of vessels within the area to be designated as the inshore precautionary area. The argument is that since the area is used for taking on and letting off pilots, ships should be allowed in that area only for that purpose and should not be permitted to anchor there. However, since Rule 10 already calls on vessels to "avoid anchoring" in the TSS, including the precautionary area, and since the Houston pilots have recently set up a queuing system (to line vessels up in an orderly manner and reduce the congestion of the "first come, first served" situation), the Coast Guard does not believe further regulation is necessary at this time. The pilot boarding situation will instead be highlighted by a note associated with the inshore precautionary area. The note is a part of the IMO TSS description and will be added to the description in the Code of Federal Regulations. The Coast Guard will also request that the National Ocean Survey add the note to the appropriate charts. The note reads as follows: "A pilot boarding area is located near the center of the inshore precautionary area. Due to heavy vessel traffic, mariners are advised not to anchor or linger in this precautionary area except to pick up or disembark a pilot."

Requests by commenters to expand the use of the Vessel Traffic Service (VTS) into the TSS is beyond the scope of this rulemaking. The Coast Guard expects that the Houston/Galveston Navigation Safety Advisory Committee will explore the uses of VTS in the approaches to Galveston.

Temporary Adjustments

One commenter suggested that temporary adjustments to TSS's as allowed by 33 CFR 167.15 be limited to 72 hours and that permanent changes not be made before affected industry has had an opportunity to comment on

economic impacts. Section 167.15(a) concerns permanent modifications to TSS's and ensures that the public will have an opportunity to comment on a notice of proposed rulemaking where a permanent change to a TSS description is involved. On the other hand, § 167.15(b) provides flexibility for making short term adjustments to TSS's under circumstances where a permanent change is not warranted. For instance, the adjustment rule is designed to allow for exploratory offshore drilling where a temporary lane shift or precautionary area may be the most appropriate means of protecting navigation safety while allowing offshore interests to explore for resources. These operations often involve complicated scheduling of equipment and require several days of on site activity. This flexibility is permitted under IMO guidelines. Along the coast of California, adjustments for three months have been made to the TSS lanes during exploratory drilling.

While acknowledging that an adjustment for exploratory drilling will not take place in the Galveston TSS (because of the underlying fairway), the Coast Guard intends the rules to apply to all TSS's promulgated under the Ports and Waterways Safety Act (PWSA), and to duplicate as nearly as possible the IMO guidelines. Therefore, a limitation on the length of a temporary adjustment would be overly restrictive and would inhibit the Coast Guard's ability to accommodate "the needs of other uses" of the waterway, as encouraged and authorized by the PWSA [33 U.S.C. 1223(4)(c)(5)(C)].

Although adjustments can be made on the initiative of the Coast Guard to accommodate needs of safe navigation when it becomes aware of a potential TSS interference in the ordinary course of operations, the person or company which is directly affected by the TSS and believes an adjustment is needed may petition the Coast Guard for an adjustment. Section 167.15(b) has been modified to make this opportunity clear, and to indicate that such petitions should be submitted to the District Commander of the district in which the TSS is located. A lead time of 150 days is inserted in the rule because IMO guidelines request that a notice of an adjustment to a TSS be made internationally at least 120 days before the operation begins. The 120-day notice is needed for circulation of the specific changes to hydrographic offices which are responsible for issuing notices to mariners. An additional month is considered an adequate time for Coast Guard review of the request before it is

forwarded to IMO headquarters by the Commandant.

Anchorage Areas

Two commenters recommended that the fairway anchorage areas located on both sides of the Galveston fairway be relocated to a point near the offshore end of the TSS. The present location, according to one comment, "makes it extremely difficult for the vessel anchored to enter the scheme in accordance with [Rule 10], i.e., crossing a lane at right angles and entering the other lane at as small an angle to the flow of traffic as is possible." While the Coast Guard acknowledges the merit in this recommendation, it would be very difficult to relocate the existing anchorages at this time because of extensive offshore leasing of blocks in the area and location of existing structures. The present location of the anchorages, while not optimal, does not appear to pose an unacceptable hazard to navigation and should not be cause for delay of the TSS. The Coast Guard will encourage the Advisory Committee to study the situation and make recommendations.

Separation Zone

One commenter expressed concern about traffic in the separation zone. During the time the Galveston Approach TSS was being designed, the Coast Guard was aware of plans for dredging a 600-foot wide, 55-foot deep channel through the fairway and took this project into account by locating the 1000-foot separation zone over the proposed centerline of the deep draft channel which will not be along the center of the existing fairway. Although there have been several delays in the dredging project, the Coast Guard will retain the original design, in which the separation zone divides the fairway unevenly and the inbound lane is wider than the outbound lane. Buoys will be installed on the centerline of the separation zone pending further developments. Should the dredging become imminent, the Coast Guard will evaluate the need for a parallel set of buoys along the sides of the separation zone and will determine a suitable method of traffic management for deep draft traffic using the dredged channel. It is expected that the Advisory Committee will anticipate and address the problems associated with the channel and will make recommendations to the Coast Guard. In the meantime, Rule 10 strictly limits when vessels may enter the separation zone.

Regulatory Evaluation

Neither the establishment of, nor compliance with, the traffic separation scheme in the approach to Galveston Bay is expected to have an economic impact on industry, small entities, consumers, or the ability of U.S. enterprises to compete with foreign interests. Also, the only environmental impact will be positive, from a lower risk of environmental damage resulting from vessel accidents.

Vessels will not be required under these rules to use the TSS lanes during an approach to Galveston Bay. A vessel can enter the Galveston Entrance Channel from an anchorage area without entering a designated traffic lane. However, due to the funnelling-effect of the fairway into Galveston Entrance Channel, and the convenience of following a directional flow of traffic, vessel operators are expected to prefer using the TSS. Once a vessel is within the designated TSS, it will be governed by the operating rules of Rule 10 (72 COLREGS) as made applicable by § 167.10.

Although existence of a TSS can affect the operations of fishing vessels, no negative economic impact is expected in the Galveston area because of the TSS. By making Rule 10 applicable in the TSS, the regulations (§ 167.10) require a fishing vessel in a traffic lane, like any other vessel, to proceed in the "general direction of traffic flow" (Rule 10(b)(i)). Also, "a vessel engaged in fishing shall not impede the passage of any vessel following a traffic lane" (Rule 10(h)(i)). In other words, a fishing vessel will not be permitted to pull its nets or trawl against the flow of traffic in a lane. However, while vessels are normally not to enter a separation zone between the lanes, a fishing vessel is specifically permitted to enter a separation zone to engage in fishing (Rule 10(h)(ii)). Shrimping and fishing vessel operators in the area 13 Galveston are not expected to be affected by having a TSS in the approach fairway. Fishing activity has already been limited by the heavy vessel traffic in the fairway.

The traffic separation scheme will overlay an existing shipping safety fairway; therefore, it will not create a new interference with drilling operations and it will not interfere with access to offshore resources.

For the above reasons, these regulations are considered non-significant and non-major under guidelines set out in "Policies and Procedures for Simplification, Analysis and Review of Regulations" (DOT Order 2100.5 of 22 May 1980) and in Executive

Order 12291. These rules will not impose reporting requirements and will not have an annual effect on the economy of 100 million dollars. The new TSS will not result in a major increase in costs or prices for consumers, individual industries or geographic regions; and it will not have an adverse effect on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets. Further regulatory evaluation is not necessary because the impact is expected to be minimal.

In is hereby certified, pursuant to section 605(b) of the Regulatory Flexibility Act (94 Stat. 1164, Pub. L. 96-354), that this action will not have a significant economic impact on a substantial number of small entities. While improving navigation safety, the new TSS will impose no costs on the vessels affected by it.

List of Subjects in 33 CFR Part 167

Navigation (water), Vessels, Traffic separation scheme.

In consideration of the foregoing, a new Part 167, Subchapter P of Title 33 of the Code of Federal Regulations, is added to read as follows:

PART 167—OFFSHORE TRAFFIC SEPARATION SCHEMES

Subpart A—General

- Sec.
- 167.1 Purpose.
- 167.5 Definitions.
- 167.10 Operating rules.
- 167.15 Modification of schemes.

Subpart B—Description of Traffic Separation Schemes and Precautionary Areas

- 167.100 Galveston Bay Approach Traffic Separation Scheme and Precautionary Areas.

Authority: Sec. 4, 92 Stat. 1473 (33 U.S.C. 1223); 49 CFR 1.46(n).

Subpart A—General

§ 167.1 Purpose.

The purpose of the regulations in this part is to establish and designate traffic separation schemes and precautionary areas to provide access routes for vessels proceeding to and from U.S. ports.

§ 167.5 Definitions.

(a) "Traffic separation scheme" (TSS) means a designated routing measure which is aimed at the separation of opposing streams of traffic by appropriate means and by the establishment of traffic lanes. The

elements of a TSS include traffic lanes, a separation zone or line, and, in many cases, precautionary areas.

(b) "Traffic lane" means an area within defined limits in which one-way traffic is established. Natural obstacles, including those forming separation zones, may constitute a boundary.

(c) "Separation zone or line" means a zone or line separating the traffic lanes in which ships are proceeding in opposite or nearly opposite directions; or separating a traffic lane from the adjacent sea area; or separating traffic lanes designated for particular classes of ships proceeding in the same direction.

(d) "Precautionary area" means a routing measure comprising an area within defined limits where ships must navigate with particular caution and within which the direction of traffic flow may be recommended.

§ 167.10 Operating rules.

The operator of a vessel in a TSS shall comply with Rule 10 of the International Regulations for Preventing Collisions at Sea, 1972, as amended.

§ 167.15 Modification of schemes.

(a) A traffic separation scheme or precautionary area described in this Part may be permanently amended in accordance with 33 U.S.C. 1223 (92 Stat. 1473), and with international agreements.

(b) A traffic separation scheme or precautionary area in this Part may be temporarily adjusted by the Commandant of the Coast Guard in an emergency, or to accommodate operations which would create an undue hazard for vessels using the scheme or which would contravene Rule 10 of the International Regulations for Preventing Collisions at Sea, 1972. Adjustment may be in the form of a temporary traffic lane shift, a temporary suspension of a section of the scheme, a temporary precautionary area overlaying a lane, or other appropriate measure. Adjustments will only be made where, in the judgment of the Coast Guard, there is no reasonable alternative means of conducting an operation and navigation safety will not be jeopardized by the adjustment. Notice of adjustments will be made in the appropriate Notice to Mariners and in the Federal Register. Requests by members of the public for temporary adjustments to traffic separation schemes must be submitted 150 days prior to the time the adjustment is desired. Such Requests, describing the interference that would otherwise occur to a TSS, should be submitted to the District Commander of the Coast Guard District in which the TSS is located.

Subpart B—Description of Traffic Separation Schemes and Precautionary Areas

§ 167.100 Galveston Bay Approach Traffic Separation Scheme and Precautionary Areas.

(a) An inshore precautionary area bounded by a line connecting the following geographical positions:

Latitude	Longitude
(1) 29° 18.10' N.	94° 39.20' W
(2) 29° 16.10' N.	94° 37.00' W
(3) 29° 18.00' N.	94° 34.90' W
(4) 29° 19.40' N.	94° 37.10' W
(5) 29° 19.80' N.	94° 38.10' W.

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

Latitude	Longitude
(6) 29° 17.15' N.	94° 35.80' W
(7) 29° 09.20' N.	94° 28.23' W
(8) 29° 09.05' N.	94° 26.36' W.
(9) 29° 17.04' N.	94° 35.93' W

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

Latitude	Longitude
(3) 29° 18.00' N.	94° 34.90' W.
(10) 29° 11.20' N.	94° 24.00' W

(d) A traffic lane for outbound (southeasterly heading) traffic is established between the separation zone and line connecting the following geographical positions:

Latitude	Longitude
(2) 29° 16.10' N.	94° 37.00' W.
(11) 29° 07.70' N.	94° 27.80' W

(e) An offshore precautionary area bounded by a line connecting the following geographical positions:

Latitude	Longitude
(11) 29° 07.70' N.	94° 27.80' W.
(12) 29° 06.40' N.	94° 26.20' W.
(13) 29° 06.40' N.	94° 23.90' W.
(14) 29° 09.10' N.	94° 20.80' W.
(10) 29° 11.20' N.	94° 24.00' W.

Note.—A pilot boarding area is located near the center of the inshore precautionary area. Due to heavy vessel traffic, mariners are advised not to anchor or linger in this precautionary area except to pick up or disembark a pilot.

[92 Stat. 1473 section 4(c); 33 U.S.C. 1223(4)(c); 49 CFR 1.46(n)]

Dated: July 14, 1983.

H. H. Kofke,

Captain, U.S. Coast Guard, Acting Chief,
Office of Navigation.

[FR Doc. 83-21020 Filed 8-10-83; 8:45 am]

BILLING CODE 4910-14-M

46 CFR Parts 31, 32, and 35

[CGD 80-009]

Correction of Miscellaneous Disparities in 46 CFR Subchapter D, Tank Vessels

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: These amendments eliminate minor disparities that exist between various Coast Guard regulations governing tank vessels. The regulations affected concern inspection requirements, special equipment, and operations. These amendments benefit tank vessel owners and operators by revising various provisions to eliminate conflicting requirements.

EFFECTIVE DATE: This amendment is effective on September 12, 1983.

FOR FURTHER INFORMATION CONTACT: Lt John Astley (G-MVI-2), Room 2612, U.S. Coast Guard Headquarters, 2100 Second Street, S.W., Washington, D.C. 20593, (202) 426-2190. Normal office hours are between 7:00 a.m. and 5:00 p.m., Monday through Friday.

SUPPLEMENTARY INFORMATION: On November 8, 1982, the Coast Guard published a notice of proposed rulemaking (47 FR 50525) concerning these amendments. Interested persons were given until December 23, 1982 to submit comments. Three letters were received in response to the Notice of Proposed Rulemaking.

Discussion of Major Comments

Section 31.01-1(b). One commenter suggested that proposed paragraph (b) introduced a substantial change which would adversely affect tank vessels in the grain trade, by requiring that they be clean of cargo residue and gas free in order to be exempt from Subchapter "D" regulations. This was not intended. The section only deals with tank vessels which are laid up, dismantled, and out of commission. In order to be exempt from Subchapter "D" regulations, a laid up, dismantled and out of commission tank vessel must be clean of cargo residue and maintained in a gas free condition. In the final rule the reference to tank vessels removed from the bulk liquid cargo service has been deleted.

Section 32.50-15(a)(2). This section authorizes the use of a portable piping system when handling grades D and E cargoes, provided the system satisfies the requirements of § 32.50-15 (a)(2)(i) thru (a)(2)(v) inclusive. A commenter questioned whether all the portable piping requirements listed in paragraph § 32.50-15(a)(2) applied to vessels

transferring only animal fats and vegetable oils. The proposed regulation was not very clear. Paragraphs (a)(2)(iv) and (a)(2)(v) do not apply when transferring animal fats or vegetable oils. The final rule clarifies this point.

Section 35.05-15(b). One commenter pointed out that the proposed regulation represents a substantive change in that it requires a security watch on a moored tank barge carrying any Subchapter "D" commodity. The old regulation allows for an alternative; it is the securing of all cargo tank hatches and the posting of appropriate warnings. The existing requirement was only in conflict with 33 CFR 155.810 when a barge carried an oil product. Since all Subchapter "D" commodities are not oils, the final rule has been modified to reflect the need for a security watch on a moored barge carrying oil. The old alternative will be allowed when a moored barge has only non-oil Subchapter "D" products on board.

(b) Some confusion exists as to what constitutes a security watch. The watchman is a person who is responsible for the security of the barge and for keeping unauthorized persons off the barge. The degree of vessel security needed is assessed by the Captain of the Port on a case by case basis, taking into account the particulars of the mooring facility, location of personnel acting as watchman, environmental considerations and other factors which affect the situation. Normally one person may watch more than one barge if located at a terminal or fleeting area.

Final Evaluation

The regulations have been evaluated under Executive Order 12291 and determined to be non-major. They have also been evaluated under the Department of Transportation's Policies and Procedures for Simplification, Analysis, and Review of Regulations (44 FR 1103, February 26, 1979 as amended by 44 FR 28126, May 14, 1979) and determined to be non-significant.

With one exception the regulations impose no new requirements. They merely amend the regulations governing tank vessels by eliminating minor disparities that exist between Subchapter D of Title 46 CFR and the Pollution Prevention regulations in Subchapter O of Title 33 CFR. The regulation changes provide for uniformity in the two sections of regulations thereby eliminating conflicting requirements. The elimination of these disparities will benefit all users without additional costs.

The one new requirement is contained in 46 CFR 35.35-30, "Declaration of Inspection." A check of the vessel's inert gas system has been added to the items listed in the Declaration of Inspection. The proper operation of the inert gas system is currently required by another regulation. The addition of this item to the Declaration of Inspection form merely serves as a reminder to the senior deck officer to ensure that the requirement of another regulation is being met. No additional burdens are imposed. Therefore a full regulatory evaluation is not warranted and none has been prepared.

The Coast Guard has assessed the environmental effects of these rules and found no significant adverse impact on the environment.

Under the Paperwork Reduction Act, the Office of Management and Budget has approved the Declaration of Inspection checkoff list in existing 46 CFR 35.35-30(b). This amendment adds one more item to that list, item (b)(12) concerning the operation of the inert gas system. As the regulations in 46 CFR 35.35-20 require the person who is to complete the checklist to inspect the inert gas system, the addition of item (b)(12) to the checklist does not impose any additional burden.

The regulations have been evaluated under Public Law 96-354 (94 Stat. 1168) and, based upon facts discussed above, they are certified to have no significant economic impact on a substantial number of small entities.

OMB Control Numbers

Information collection requirements contained in these regulations at 46 CFR 35.35-30 have been approved by the Office of Management and Budget under 44 U.S.C. Chapter 35 and have been assigned OMB approval number 2115-0506.

List of Subjects

46 CFR Part 31

Marine safety, Tank vessels, Barges, Law enforcement, Flammable materials.

46 CFR Part 32

Marine safety, Fire protection, Tank vessels, Barges.

46 CFR Part 35

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Tank vessels, Barges, Seamen.

In consideration of the foregoing, Parts 31, 32, and 35 of Subchapter D, Chapter 1, Title 46, Code of Federal Regulations are amended as follows:

PART 31—INSPECTION AND CERTIFICATION

1. By revising paragraph (b) of § 31.01-1 to read as follows:

§ 31.01-1 Inspections required—TB/ALL

(b) Tank vessels which are laid up, dismantled, and out of commission are exempt from inspections required by law or regulations in this subchapter, provided that such vessels are cleaned of all cargo residue and maintained in a gas free condition.

PART 32—SPECIAL EQUIPMENT, MACHINERY, AND HULL REQUIREMENTS

2. By revising paragraph (a)(2) of § 32.50-15 to read as follows:

§ 32.50-15 Cargo piping on tank vessels constructed on or after July 1, 1951—TB/ALL

(a) * * *

(2) Tank vessels carrying only Grades D and E cargo may use a portable piping system in lieu of a fixed piping system meeting the requirements of paragraph (a)(1) of this section, provided—

(i) The hose complies with 33 CFR 154.500 or the portable piping complies with Part 56 of this chapter;

(ii) The connections comply with 33 CFR 156.130;

(iii) A shutoff valve is at or near the point of entry into the tank;

(iv) Except for the carriage of animal fats and vegetable oils, the system has a closure which forms a vapor-tight seal on the tank opening through which the cargo is transferred, is bolted or dogged in place, and has the hose and drop line connected to it; and

(v) Except for the carriage of animal fats and vegetable oils, the system has a metallic drop line which complies with 46 CFR 153.282.

3. By revising § 32.50-30 to read as follows:

§ 32.50-30 Cargo hose—TB/ALL

Cargo hose carried on tank vessels must be suitable for oil service and designed to withstand the pressure of the shutoff head of the cargo pump or pump relief valve setting, less static head, but in no case less than 150 pounds per square inch.

Note.—For additional requirements concerning cargo hose, see 33 CFR 154.500, 155.800 and 156.170.

PART 35—OPERATIONS

4. By revising paragraph (b) of § 35.05-15 to read as follows:

§ 35.05-15 Watchman for a tank vessel—TB/ALL.

(b) *Unmanned barge.* (1) A strict watch of each unmanned barge in tow must be maintained from the towing vessel while underway.

(2) When a barge is moored and contains more oil than the normal clingage and unpumpable bilge or sump residues, the barge must be kept under surveillance by a person responsible for the security of the barge and for keeping unauthorized persons off the barge.

(3) When a barge is moored and contains no oil but is not gas free—

(i) It must be maintained under surveillance as required in paragraph (b)(2) of this section; or

(ii) All cargo tank hatches must be clearly marked in not less than three inch lettering "Danger—Keep Out," and all hatch covers must be closed and dogged down in such a way that the hatch cannot be opened by the use of bare hands alone.

5. By revising § 35.30-40 to read as follows:

§ 35.30-40 Flammable liquid and gas fuels as ship's stores—TB/ALL.

(a) Flammable liquids and gases other than diesel fuel, to be used as fuel for approved equipment must satisfy the following:

(1) Stowage must be in containers approved by DOT, ICC, or A.S.M.E. for the contents carried, or in a portable safety container approved by a recognized testing laboratory for the contents carried.

(2) The contents must be marked on the containers, and the containers must be labeled in accordance with DOT requirements for flammable liquids and gases.

(3) Containers must be stowed on or above the weather deck in locations designated by the master. Containers specified in paragraph (a)(1) of this section which do not exceed a capacity of five gallons may be stowed below the weather deck in a paint or lamp locker.

(b) Diesel fuel must be stowed in locations designated by the master.

6. By revising paragraph (a) of § 35.35-15 to read as follows:

§ 35.35-15 Connecting for cargo transfer—TB/ALL.

(a) Movement of the vessel must be considered to insure safe cargo transfer. Suitable material must be used in joints and in couplings to insure that connections are tight. A bolted flanged

coupling must not have less than four bolts, under any circumstances.

7. By revising paragraphs (d) and (j) of § 35.35-20 to read as follows:

§ 35.35-20 Inspection prior to transfer of cargo—TB/ALL.

(d) All cargo connections have been made to the vessel's pipeline, and not through an open end hose led through a hatch.

(j) In loading Grades A, B, or C cargoes, that an inspection has been made to determine whether smoking may be permitted with reasonable safety in areas other than the weather deck.

8. By revising § 35.35-30 to read as follows:

§ 35.35-30 "Declaration of Inspection" for tankships—T/ALL.

(a) After an inspection under § 35.35-20 but before cargo transfer, the senior deck officer on duty shall prepare, in duplicate, a Declaration of Inspection. The original must be kept aboard the vessel and the duplicate provided to the terminal supervisor or that person's representative. The terminal supervisor or that person's representative may, upon demand, inspect the vessel to determine whether its condition is as stated on the Declaration of Inspection.

(b) The Declaration of Inspection must read as follows:

Declaration of Inspection prior to Bulk Cargo Transfer

Date _____
Vessel _____
Port of _____

I, _____, the senior deck officer in charge of the bulk cargo transfer about to be undertaken, do certify that I have personally inspected this vessel with reference to the following requirements set forth in 46 CFR § 35.35-20, and that opposite each of the applicable items listed below I have indicated whether the regulations have been complied with.

(1) Are warnings displayed as required?
(2) Is there any repair work in way of cargo spaces being carried on for which permission has not been given?

(3) Have cargo connections been made as described in 46 CFR 35.35-15 and are cargo valves set?

(4) Have all cargo connections been made to the vessel's pipeline and not through an open-end hose led through a hatch?

(5) Are there any fires or open flames present on the deck or in any compartment which is located on, open or adjacent to or facing the main deck of the vessels on which the cargo connections have been made?

(6) Has the shore terminal or other tank vessel concerned reported itself in readiness for transfer of cargo?

(7) Are sea valves connected to the cargo piping system closed?

(8) If Grades A, B, or C cargoes are to be loaded and boiler fires are lighted, has an inspection been made to determine whether these fires may be maintained with reasonable safety?

(9) If Grades A, B, or C cargoes are to be loaded and galley fires are lighted, has an inspection been made to determine whether the galley fires may be maintained with reasonable safety?

(10) If Grades A, B, or C cargoes are to be loaded, has an inspection been made to determine whether smoking is to be permitted in areas not on the weather decks?

(11) If smoking is to be permitted in areas not on the weather decks, have those areas been designated?

(12) Is the inert gas system being operated as necessary to maintain an inert atmosphere in the cargo tanks in compliance with 46 CFR 32.53-5?

(Approved by the Office of Management and Budget under OMB control number 2115-0506)

(46 U.S.C. 39a; 49 CFR 146(n)(4))

Dated: June 20, 1983.

L. N. Hein,

Captain, Coast Guard, Acting Chief, Office of Merchant Marine Safety.

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FEDERAL COMMUNICATIONS COMMISSION**47 CFR Parts 1 and 73**

[BC Docket No. 81-698; FCC 83-337]

Radio Broadcast Services; Amendment of the Commission's Rules To Eliminate the Requirement for Type Approval of Aural Modulation Monitors

AGENCY: Federal Communications Commission.

ACTION: Final rules.

SUMMARY: The Commission has amended its rules to eliminate the requirement that aural modulation monitors used by AM, FM, and TV broadcast stations be type approved. Rules requiring the operator on duty to have continuous access to modulation level indications have also been deleted, as have those requiring licensees to install equipment to monitor modulation levels. These rules were no longer considered necessary because licensees must obey the general Commission rules governing modulation levels and must install whatever equipment is necessary to ensure compliance. As a result,