

(b) *Effective Dates.* This section becomes effective on April 15, 1994, at 7 p.m. EDT. It will terminate at 6 p.m. EDT on May 15, 1994, unless sooner terminated by the Captain of the Port Louisville, Kentucky.

(c) *Regulations.* In accordance with the general regulations under § 165.23 of this part, entry into the described zone by all downbound vessels towing cargoes regulated by title 46 Code of Federal Regulations Subchapters D and O with a tow length exceeding 600 feet excluding the tow boat is prohibited from one-half hour before sunset to one-half hour after sunrise.

Dated: April 12, 1994.

W.J. Morani, Jr.,

Commander, U.S. Coast Guard, Captain of the Port, Louisville, Kentucky.

[FR Doc. 94-10175 Filed 4-26-94; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 165

[CGD08-94-006]

RIN 2115-AE81

Regulated Navigation Area; Mississippi River, Miles 88 to 240 Above Head of Passes

AGENCY: Coast Guard, DOT.

ACTION: Interim rule with request for comments.

SUMMARY: The Coast Guard is extending the upper limits of the Mississippi River regulated navigation area, which presently exists between miles 88 and 127, Mississippi River, above Head of Passes, Louisiana, to cover the area between river miles 88 and 240, above Head of Passes, up to the Port of Baton Rouge. This regulation is necessary to improve the safety of barge fleeting areas that exist on the Mississippi River between New Orleans and Baton Rouge, Louisiana, an extremely confined navigation area with a high volume of marine traffic. The extension of this regulated navigation area will result in safer, standardized methods of mooring barges at and around barge fleeting facilities along the lower Mississippi River between New Orleans and Baton Rouge, Louisiana.

DATES: This regulation becomes effective on April 28, 1994. Comments on this regulation must be received on or before June 27, 1994.

ADDRESSES: Comments should be mailed to Commander (mps), Eighth Coast Guard District, Hale Boggs Federal Bldg., 501 Magazine St., New Orleans, LA 70130-3396. Comments may also be hand delivered to this address. The comments and other materials related to

this regulation will be available for inspection and copying in room 1341 at the above address. Normal office hours are between 7:30 a.m. and 4 p.m., Monday through Friday, except holidays. Comments on collection-of-information requirements must be mailed also to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, ATTN: Desk Officer, U.S. Coast Guard. **FOR FURTHER INFORMATION CONTACT:** Lieutenant Verne Gifford, Marine Safety Division, Eighth Coast Guard District, room 1341, Hale Boggs Federal Building, 501 Magazine Street, New Orleans, LA 70130-3396. Phone number: (504) 589-6172.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views or arguments. Persons submitting comments should include their names and addresses, identify this rulemaking (CGD08-94-006) and the specific section of this rule to which each comment applies, and give the reason for each comment. Please submit two copies of all comments and attachments in an unbound format, no larger than 8.5 by 11 inches, suitable for copying. Persons wanting acknowledgment of receipt of comments should enclose stamped, self-addressed postcards or envelopes.

The Coast Guard will consider all comments received during the comment period. It may change this rule in view of the comments.

The Coast Guard plans no public hearing. Persons may request a public hearing by writing to the Commander (mps), Eighth Coast Guard District, at the address under **ADDRESSES**. The request should include the reasons why a hearing would be beneficial. If it determines that the opportunity for oral presentation will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the *Federal Register*.

Drafting Information

The drafters of this regulation are LTJG Stephanie Spunt, project officer for the Captain of the Port, New Orleans, Louisiana, LT Verne Gifford, project officer, Eighth Coast Guard District Marine Safety Division, and CDR D. G. Dickman, project attorney, Eighth Coast Guard District Legal Office.

Regulatory Information

This rule is being published as an interim rule and is being made effective

on the date of publication. Many barge fleet breakaways have occurred outside the currently regulated area that are a direct result of inadequate mooring practices that are addressed by this regulation. Current high water conditions in the amended regulated area have exacerbated the problem. Continued high water conditions are expected in the regulated area throughout the spring and summer months. Immediate action is needed to limit the number and effect of barge breakaways and to protect the environment, especially during high water conditions. For these reasons, the Coast Guard for good cause finds, under 5 U.S.C. 553(b)(B) and (d)(3), that notice, and public procedure on the notice, before the effective date of this rule are contrary to the public interest and that this rule should be made effective in less than 30 days after publication.

Background and Purpose

Recent barge fleet breakaways on the Mississippi River within the Captain of the Port New Orleans zone show that there are a statistically significant higher incidence of barge fleet breakaways between miles 127 and 240 above Head of Passes, which is outside of the current regulated navigation area. Coast Guard fleet inspectors have found that many fleeting operations located between miles 127 and 240 do not currently conform with the mooring regulations that apply to fleets operating within the current regulated navigation area.

Casualty investigations have indicated that a majority of the breakaways occur as the result of a passing tow or deep draft vessel striking the fleet. Additionally, barge fleet breakaways are also caused by large wakes from passing deep draft vessels. Both of these causal factors increase during high water conditions as faster currents and increased debris result from the high water conditions. This contributes to more collisions and to more incidents from large vessel wakes. Most often, in these cases, barge moorings outside the current regulated area have been determined to have been weak or inadequate to withstand these foreseeable increased forces. High water conditions currently exist and it is expected that higher than normal river stages will continue to exist during the spring and summer of 1994.

Discussion of Rules

The existing regulations establish general procedural and equipment requirements for mooring of barge fleets on the Mississippi River between miles

88 and 127 above Head of Passes. These regulations further outlined additional specific fleeting requirements during periods of high water. High water is specified in the regulations as existing when the Carrollton Gauge stands at 12 feet, or when the Carrollton Gauge stands at 10 feet, the U.S. Army Corps of Engineers forecasts the Mississippi River will rise to 12 feet and the District Commander determines the conditions to be hazardous.

The Coast Guard has determined that extending the regulated navigation area to include the area of the Mississippi River between mile 88 and mile 240 above Head of Passes will improve the management and mooring procedures for the bare fleets in this area and will reduce the number of breakaways as well as create a safer environment for the entire maritime community in the Captain of the Port New Orleans zone.

Regulatory Evaluation

This regulation is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has not been reviewed by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11034); February 26, 1979). The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. section 601 et seq.), the Coast Guard must consider the economic impact on small entities of a rule for which a general notice of proposed rulemaking is required. "Small entities" may include: (1) Small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields and (2) governmental jurisdictions with populations of less than 50,000. This rule does not require a general notice of proposed rulemaking and, therefore, is exempt from the requirements of the Act. Although this rule is exempt, the Coast Guard has reviewed it for potential impact on small entities.

There are approximately 33 barge fleeting operations outside of the current regulated area that will be required to comply with the increased mooring and supervision requirement as a result of the expansion of the regulated area. Operators of barge fleets often share locations and some

operators have multiple locations both within and without the current regulated area, meaning that the businesses affected will be less than the number of fleets.

Therefore, the Coast Guard's position is that this rule will not have a significant economic impact on a substantial number of small entities. If, however, you think that your business or organization qualifies as a small entity and that this rule will have a significant economic impact on your business or organization, please submit a comment (see ADDRESSES) explaining why you think it qualifies and in what way and to what degree this rule will economically affect it.

Collection of Information

Under the Paperwork Reduction Act (44 U.S.C. section 3501 et seq.), the Office of Management and Budget (OMB) reviews each rule that contains a collection-of-information requirement to determine whether the practical value of the information is worth the burden imposed by its collection. Collection-of-information requirements include recordkeeping, notification, and other, similar requirements.

This rule contains collection of information requirements in the following section: Section 165.803(i). The following particulars apply:

DOT No.: 2115.

OMB Control No.: 2115-0092.

Administration: U.S. Coast Guard.

Title: Regulated Navigation Area; Mississippi River, Miles 88 to 240 Above Head of Passes.

Need for Information: To ensure that the operators of barge fleeting facilities follow the proper mooring and inspection procedures, in order to prevent barges from breaking away from a fleeting facility and creating a hazard in a very congested area of the Mississippi River.

Proposed Use of Information: To provide documentary evidence that inspections are being made and to aid in the investigation of any occurrences of barge fleet breakaways.

Frequency of Response: Barge fleeting facilities must record: the time of commencement and termination of each inspection of barge moorings and the name of each person who does the inspection (twice daily); the date and time of each barge entering or leaving the facility; and the hazardous cargoes in them.

Burden Estimate: Estimated burden is as follows:

	Currently approved	Requested
Number of recordings per day.	9.3	9.3
Estimated time per recording.	5 minutes	5 minutes
Number of days per year.	365 days	365 days
Average wage of inspectors.	\$8 per hour ..	\$8 per hour
Number of fleeting facilities.	39	70

9.3 recordings per day×365 days×70 fleets×5 minutes per recording divided by 60 (minutes per hour) = 19801 hours. Annual total cost is \$158,408. (Current approved burden is 11032 hours and annual total cost of \$88,256.)

Respondents: 70 barge fleeting operators in the regulated area.

Form(s): None specified.

Average Burden Hours per Respondent: 283 hours per respondent per year.

This rule represents an increase of 8769 total hours in recordkeeping requirements.

The Coast Guard is submitting the increased requirements to the Office of Management and Budget (OMB) for review under section 3504(h) of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.). The section number is § 165.803(i) and the current OMB control number is OMB Control Number 2115-0092. Persons submitting comments on the requirements should submit their comments both to OMB and to the Coast Guard where indicated under ADDRESSES.

Federalism Assessment

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this proposed rule does not raise sufficient federalism concerns to warrant the preparation of a Federalism Assessment.

Environmental Consideration

This rule has been thoroughly reviewed by the Coast Guard, the lead Federal agency for purposes of the National Environmental Policy Act (NEPA). It has been determined not to have a significant effect on the human environment or environmental conditions and to be categorically excluded from further environmental documentation in accordance with section 2.B.2.c. of Commandant Instruction M16475.1B.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

Final Regulation

In consideration of the foregoing, part 165 of title 33, Code of Federal Regulations, is amended as follows:

PART 165—[REVISED]

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05-1(g), 6.04-1, 6.04-6, and 160.5; 49 CFR 1.46.

2. In section 165.803, the introductory text and paragraph (m)(1) introductory text are revised to read as follows:

§ 165.803 Mississippi River—regulated navigation area.

The following is a regulated navigation area—The waters of the Mississippi River between miles 88 and 240 above Head of Passes.

(m) High water.

(1) This subsection applies to barges on the Mississippi River between miles 88 and 240 above Head of Passes when:

Dated: April 20, 1994.

J.C. Card,

Rear Admiral, U.S. Coast Guard, Commander, Eighth Coast Guard District.

[FR Doc. 94-10170 Filed 4-26-94; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 167

[CGD 90-039]

RIN 2115-AD43

Traffic Separation Scheme; In The Approaches to Chesapeake Bay

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard amends the traffic separation scheme (TSS) in the Approaches to Chesapeake Bay by realigning and reconfiguring the Southern Approach to incorporate a deep-water (DW) route. The Coast Guard suspended the Southern approach lanes on October 15, 1988, because the water depth was too shallow to accommodate the deeper draft vessels which were able to call on the port after completion of a U.S. Army Corps of Engineers (COE) channel deepening project in Hampton Roads. The realigned and reconfigured Southern Approach utilizes naturally occurring deeper water and incorporates

the proposed Atlantic Ocean Channel, a U.S. Army Corps of Engineers navigation improvement project.

EFFECTIVE DATES: May 31, 1994.

ADDRESSES: Unless otherwise indicated, documents referred to in this preamble are available for inspection or copying at the office of the Executive Secretary, Marine Safety Council (G-LRA/3406), U.S. Coast Guard Headquarters, 2100 Second Street SW., room 3406, Washington, DC 20593-0001 between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 267-1477.

FOR FURTHER INFORMATION CONTACT: Margie G. Hegy, Project Manager, Short Range Aids to Navigation Division, Office of Navigation Safety and Waterway Services at (202) 267-0415.

SUPPLEMENTARY INFORMATION:**Drafting Information**

The principal persons involved in drafting this document are Margie G. Hegy, Project Manager, John R. Walters, Project Officer, Fifth Coast Guard District Portsmouth, VA, and Helen G. Boutros, Project Counsel, Office of Chief Counsel.

Regulatory History

On September 6, 1990, the Coast Guard published a notice of proposed rulemaking entitled "Traffic Separation Scheme; In the Approaches to Chesapeake Bay" in the Federal Register (55 FR 36666). The Coast Guard received six letters commenting on the proposal. A public hearing was not requested and one was not held.

Background and Purpose.

The Ports and Waterways Safety Act (PWSA), 33 U.S.C. 1223 authorizes the Secretary of the Department in which the Coast Guard is operating to establish TSSs and shipping safety fairways, where necessary, to provide safe access routes for vessels proceeding to or from United States ports.

A TSS is an internationally recognized routing measure that minimizes the risk of collision by separating vessels into opposing streams of traffic through the establishment of traffic lanes. To be internationally recognized, a TSS must be approved by the International Maritime Organization (IMO). IMO approves a TSS only if the proposed routing system complies with IMO principles and guidelines on ships' routing. Vessel use of a TSS is voluntary; however, vessels operating in or near an IMO approved TSS are subject to Rule 10 of the International Regulations for Preventing Collisions at

Sea, 1972 (72 COLREGS), 33 U.S.C. foll. 1602.

The TSS in the Approaches to Chesapeake Bay was established on December 1, 1969, and was adopted by IMO on October 12, 1971. It consists of three parts: Part I, Precautionary Area; Part II, Eastern Approach; and Part III, Southern Approach.

Regulatory Background

The 1978 amendments to the PWSA required the Coast Guard to undertake a port access route study to determine the need for TSSs or shipping safety fairways to increase vessel traffic safety in offshore areas subject to the jurisdiction of the United States. The Coast Guard initiated this study by publishing a notice of study on April 16, 1979 (44 FR 22543). The final notice of study results for the TSS in the Approaches to Chesapeake Bay was published on July 22, 1982 (47 FR 31766). The study concluded that the existing TSS was adequate for the foreseeable future.

The Water Resources Development Act of 1986, Public Law 99-662, (33 U.S.C. 2201 *et seq.*) authorized the deepening of the Thimble Shoals, Newport News, Craney Island Reach, Norfolk Harbor Reach, and the Entrance Reach Channels in the port of Hampton Roads to a depth of 55' below mean low water (MLW) and construction of a new channel, to be known as the Atlantic Ocean Channel. The Atlantic Ocean Channel will connect deep water at the entrance to Chesapeake Bay with deep water in the Atlantic Ocean.

Completion of the dredging of all channels except the Atlantic Ocean Channel to 50' (MLW) allows vessels with drafts exceeding the water depths in the existing Southern Approach lanes to call on the ports of Hampton Roads. The COE conducted hydrographic surveys in 1985 and 1986 and found that the water depth in the Southern Approach lanes was only 48' (MLW); however, water depths of 50' were found in the immediate vicinity. To ensure safe navigation for vessels with drafts exceeding the water depth in the Southern Approach lanes, the Coast Guard suspended the Southern Approach lanes (Notice to Mariners No. 31, July 30, 1988). A system of safewater buoys was established, as an interim measure, to direct vessels to naturally occurring deeper waters in the immediate vicinity.

The Coast Guard opened a Port Access Route Study on July 12, 1988 (53 FR 26282). The study, conducted by the Fifth Coast Guard District in Portsmouth, VA, evaluated the need for vessel routing measures in the

approaches to Chesapeake Bay. The study area encompassed the approaches to Chesapeake Bay, including the TSS.

The study results were published on July 13, 1989, at 54 FR 29627. The study, concluding that there is a continuing need for the TSS, recommended that the Southern Approach be realigned and reconfigured to incorporate a deep-water route with specific rules for vessels operating therein.

A deep-water route is an internationally recognized routing measure primarily intended for use by ships, which because of their draft in relation to the available depth of water in the area concerned, require the use of such a route. In the Southern Approach, water depths outside of the planned deep water route are insufficient for use by vessels drawing more than 45' of water. It is also a general requirement of IMO that traffic which does not require the use of the deep-water route should avoid using the route.

The Coast Guard submitted the amended TSS, as proposed in the NPRM, to IMO's Subcommittee on Safety of Navigation (NAV) for consideration and approval at its September 1990 meeting. The Subcommittee approved the establishment of a deep-water route between the traffic lanes of the southern approach of the TSS as proposed by the U.S., but "could not agree with the proposal to recommend the use of the deep-water route by certain ships with a draft of less than 45' (13.5 meters) which need not use the deep-water route." The Subcommittee amended the U.S. proposal accordingly and forwarded it to IMO's Maritime Safety Committee for consideration and adoption. The Committee adopted the revised proposal at its May 1991 meeting for implementation at 0000 hours UTC, 0500 Eastern Time Zone, on 16 November 1991.

The Coast Guard is reconfiguring the Southern Approach, which is crucial to continued navigation safety and protection of the marine environment, and publishing the Precautionary Area and Eastern Approach parts of the existing TSS.

The Southern Approach consists of inbound and outbound lanes for vessels drawing 45' of water or less, separated by a 1300' wide deep-water route for inbound and outbound vessels drawing over 45' of water and for naval aircraft carriers.

Both the inbound and outbound lanes for vessels drawing 45' feet of water or less measure 0.75 nautical miles (1500 yards) in width as determined by multiplying the published standard

error of LORAN-C (0.25 NM) by three. Because of the low-lying coast of the Commonwealth of Virginia and the lack of prominent landmarks, LORAN-C remains an acceptable aid to navigation for use in these inbound and outbound lanes.

The deep water route, for vessels drawing over 45' of water, measures 1300' in width and has a charted natural depth of 50' or greater. As currently planned, the COE will construct the Atlantic Ocean Channel in this location when funds become available in both the Federal and Commonwealth of Virginia budgets. Due to uncertain economic conditions, a dredging completion date is unknown.

Discussion of Comments and Changes

Six written comments were received in response to the notice of proposed rulemaking. Five comments fully support establishment of the traffic separation scheme and the sixth comment offered editorial suggestions. Specific comments pertaining to other aspects of the proposal are discussed below.

The U.S. Army Corps of Engineers (COE) advised that due to budgetary consideration in the Commonwealth of Virginia, dredging of the Atlantic Ocean Channel would be rescheduled to an indefinite time in the future. The COE also pointed out an error in one of the geographical positions for the inbound traffic lane. This information has been corrected in the final rule.

One comment, which is not adopted in this final rule, suggested that the draft limitation for use of the deep-water route be changed to "vessels drawing 45 feet or more" while four comments agreed with the proposal to provide vessels drawing greater than 45 feet exclusive use of the deep-water route.

Five comments strongly objected to the proposal to recommend that all vessels carrying dangerous cargo and petroleum distillates as cargo use the deep-water route. IMO's Subcommittee on Safety of Navigation also objected to this provision and amended the U.S. proposal to exclude it from consideration and adoption by the Maritime Safety Committee. Based on the comments and IMO's action, this proposed recommendation is deleted from this final rule.

Three comments objected to naval aircraft carriers using the deep-water route. In response to the notice of study, the U.S. Navy requested that it be allowed to use the deep-water route to ensure the continued safe, uneventful transit of aircraft carriers to and from sea. The Coast Guard and IMO agree that aircraft carrier usage of the deep-

water route will enhance navigation safety and therefore will be permitted.

One comment suggested placement of a buoy near latitude 36°54.43' longitude 75°53.2'W to mark lesser water depths adjacent to the inbound traffic lane. The 1500-yard inbound lane, with the use of LORAN-C or radar, is sufficient to allow safe passage through the area without the placement of a buoy. Therefore, this comment is not adopted.

Three comments disagreed with the proposed recommendation that vessels announce their intentions to use the deep-water route. One comment objected to Channel 16 VHF-FM usage because of frequency congestion by other users. Two comments recommended that vessels call at least one hour prior to entering the deep-water route instead of at the time the vessel approaches Chesapeake Bay Southern Approach Lighted Whistle Buoy CB on the south end, or Chesapeake Bay Junction Lighted Buoy CB on the north end of the route, as proposed in the NPRM. The Coast Guard realizes that Channel 16 is crowded, however it is recognized as the distress, safety, and calling frequency in the United States and internationally as evidenced by IMO's adoption of this recommended practice. If the exchange of additional information is required, shifting to another VHF-FM channel would be appropriate.

Other minor editorial and administrative changes have been made to improve the clarity of this part.

Regulatory Evaluation

This regulation is not a significant regulatory action under section 3(f) of Executive Order 12866 and non-significant under the DOT regulatory policies and procedures (44 FR 11034; February 26, 1979). Vessels have been complying with the requirements of this rule since IMO implementation on November 16, 1991. No additional costs are associated with this final rule. The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

Small Entities

There are no additional costs associated with this final rule as vessels have been using the newly configured southern approach lanes since it was implemented by IMO on November 16, 1991. Therefore, the Coast Guard certifies under Section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) that this final rule will not have

a significant economic impact on a substantial number of small entities.

Collection of Information

This rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this rule in accordance with the principles and criteria contained in Executive Order 12612 and has determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The authority to establish TSSs and shipping safety fairways, where necessary, to provide safe across routes for vessels proceeding to or from U.S. ports is committed to the Coast Guard by Federal Statute. Therefore, the Coast Guard does not expect this rule to raise any preemption issues with respect to state actions on the same subject matter.

Environmental Impact

The Coast Guard has determined that this action will not have a significant impact on the environment and that an environmental impact statement is not necessary. A Finding of No Significant Impact (FONSI) is on file in the docket for inspection or copying where indicated under ADDRESSES. Comments received as a result of the NPRM did not address any environmental concerns.

List of Subjects in 33 CFR Part 167

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

For the reasons set out in the preamble, the Coast Guard amends 33 CFR part 167 as follows:

PART 167—OFFSHORE TRAFFIC SEPARATION SCHEMES

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

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

2. Section 167.3 is revised to read as follows:

§ 167.3 Geographic coordinates.

Geographic coordinates are defined using North American 1927 Datum (NAD 27) unless indicated otherwise.

3. In § 167.5, paragraph (e) is added to read as follows:

§ 167.5 Definitions.

(e) *Deep-water route* means an internationally recognized routing measure primarily intended for use by ships that, because of their draft in relation to the available depth of water

in the area concerned, require the use of such a route.

4. The heading for Subpart B is amended to read as follows:

Subpart B—Description of Traffic Separation Schemes and Precautionary Areas

5. Sections 167.200 through 167.203 are added to read as follows:

§ 167.200 Chesapeake Bay approach traffic separation scheme.

(a) The traffic separation scheme in the approaches to Chesapeake Bay consists of three parts: a Precautionary Area, an Eastern Approach, and a Southern Approach. The Southern Approach consists of inbound and outbound lanes for vessels drawing 13.5 meters (45 feet) of fresh water or less, separated by a deep-water (DW) route for inbound and outbound vessels with drafts exceeding 13.5 meters (45 feet) in fresh water and for naval aircraft carriers. Each part is defined geographically, using North American Datum 1983 (NAD 83), in §§ 167.201, 167.202, 167.203.

(b) All vessels approaching the Traffic Separation Scheme in the Approaches to Chesapeake Bay should use the appropriate inbound or outbound traffic lane.

§ 167.201 Precautionary area.

A precautionary area is established bounded by a circle with a two-mile radius, centered on the following geographic position:

Latitude	Longitude
36°56.14' N	75°57.43' W

§ 167.202 Eastern approach.

(a) A separation line is established connecting the following geographic positions:

Latitude	Longitude
36°58.66' N	75°48.63' W
36°56.79' N	75°55.08' W

(b) An inbound traffic lane is established between the separation line and a line connecting the following geographical positions:

Latitude	Longitude
36°59.14' N	75°48.88' W
36°57.24' N	75°55.34' W

(c) An outbound traffic lane is established between the separation line and a line connecting the following geographical positions:

Latitude	Longitude
36°56.29' N	75°54.93' W
36°58.18' N	75°48.48' W

§ 167.203 Southern approach.

(a) An inbound traffic lane is established between separation lines running through the following geographical positions:

Latitude	Longitude
36°50.33' N	75°46.29' W
36°52.90' N	75°51.52' W
36°55.96' N	75°54.97' W
36°55.11' N	75°55.23' W
36°52.35' N	75°52.12' W
36°49.70' N	75°46.80' W

(b) An outbound traffic lane is established between separation lines running through the following geographical positions:

Latitude	Longitude
36°49.52' N	75°46.94' W
36°52.18' N	75°52.29' W
36°54.97' N	75°55.43' W
36°54.44' N	75°56.09' W
36°51.59' N	75°52.92' W
36°48.87' N	75°47.42' W

(c) A deep-water route is established between lines running through the following geographical positions:

Latitude	Longitude
34°55.11' N	75°55.23' W
36°52.35' N	75°52.12' W
36°49.70' N	75°46.80' W
36°49.52' N	75°46.94' W
36°52.18' N	75°52.29' W
36°54.97' N	75°55.43' W

(d) The following vessels should use the deep-water route established in paragraph (c) of this section when bound for Chesapeake Bay from sea or to sea from Chesapeake Bay:

(1) Deep draft vessels (drafts greater than 13.5 meters/45 feet in fresh water).

(2) Naval aircraft carriers.

(e) It is recommended that a vessel using the deep-water route established in paragraph (c) of this section—

(1) Announce its intention on VHF-FM Channel 16 as it approaches Chesapeake Bay Southern Approach Lighted Whistle Buoy CB on the south end, or Chesapeake Bay Junction Lighted Buoy CB on the north end of the route;

(2) Avoid, as far as practicable, overtaking other vessels operating in the deep-water route; and

(3) Keep as near to the outer limit of the route which lies on the vessel's starboard side as is safe and practicable.

(f) Vessels other than those listed in paragraph (d) of this section should not use the deep-water route.

Dated: April 15, 1994.

W.J. Ecker,

Rear Admiral, U.S. Coast Guard, Chief, Office of Navigation Safety and Waterway Services.

[FR Doc. 94-10176 Filed 4-26-94; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 21

RIN 2900-AG54

Veterans Education; Flight Training

AGENCY: Department of Veterans Affairs.

ACTION: Final regulations.

SUMMARY: These amended regulations permit pilot flight training pursuant to 14 CFR, Part 61, conducted in flight simulators to be approved for purposes of VA (Department of Veterans Affairs) administered education benefits when such training is authorized by the FAA (Federal Aviation Administration). These regulations also provide for approval of solo flight training for such education benefits purposes, as authorized by the Veterans Benefits Act of 1992.

EFFECTIVE DATES: The amendments to §§ 21.4263(g)(1), 21.4263(g)(4), 21.4263(g)(4)(ii) and the new paragraph 21.4263(h)(1)(iii) are effective September 30, 1990. All other amendments to the regulations included here are effective October 1, 1992.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer (225), Assistant Director for Policy and Program Administration, Education Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, 202-233-2092.

SUPPLEMENTARY INFORMATION: On pages 49196 through 49199 of the *Federal Register* of September 22, 1993, there were published interim final regulations with a request for public comment. These regulations amended 38 CFR part 21 in order to implement provisions of the Veterans Benefits Act of 1992 which affect flight training and to provide for approval of flight training in flight simulators for VA educational benefit purposes. Interested people were given 30 days to submit comments, suggestions or objections. VA received no comments, suggestions or objections. Accordingly, these regulations are now final.

To ensure that flight training would achieve the end of qualifying the individual for employment in the aviation industry, VA regulation § 21.4263 has long restricted approvable training in two ways: (1) The entity providing the training must have a pilot school or provisional pilot school certificate issued by the FAA under part 141, 14 CFR (§ 21.4263(g)); and (2) the training being offered must meet the FAA requirements of either Part 141, in the case of pilots, or part 63, in the case of flight crew members other than pilots (§ 21.4263(g)(3)(ii)). Thus, the individual is assured of the quality of the training and its ability to enable him or her to meet FAA standards for an appropriate certificate or rating in areas relevant to commercial aviation.

For the reasons stated in the *Federal Register* on September 22, 1993, these

amended regulations now also permit pilot flight training pursuant to 14 CFR part 61, conducted in flight simulators to be approved for purposes of VA (Department of Veterans Affairs) administered education benefits when such training is authorized by the FAA (Federal Aviation Administration).

The Veterans Benefits Act of 1992, Public Law 102-568, contains a provision which now allows eligible veterans and servicemembers to receive educational assistance allowance for pursuing solo flight training. Therefore, these amendments contain provisions governing such flight training.

The Secretary of Veterans Affairs has certified that these amended regulations will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601-612. Pursuant to 5 U.S.C. 605(b), the amended regulations, therefore, are exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

This certification can be made because those provisions governing solo flight training affect only individuals. While the amended regulations governing flight training in a flight simulator will directly affect some small entities, VA does not believe that they will affect a substantial number of them. Most of the schools or entities which now will be able to seek approval are under the control of the major airlines. These airlines would not qualify as small entities. Furthermore, the economic impact on the few small entities that would qualify to seek approval for additional training would be positive since there may be additional veterans who would pursue the courses offered by those small entities. VA does not think that this would be a significant economic impact since the number of veterans enrolling in any course would probably be small.

VA finds that the Administrative Procedures Act allows a retroactive effective date for these amended regulations. The amended regulations governing flight training in flight simulators contain only liberalizing provisions which relieve a restriction imposed on the approval of flight courses.

Furthermore, the department is aware that although the regulations did not permit approval of courses offered pursuant to part 61, 14 CFR, some courses have been approved due to a misunderstanding as to the nature of some of these courses and some veterans have received educational assistance for pursuing them. Since, in these cases, FAA-approved training of

the kind covered by these regulations was provided based on administrative approval of the courses, VA believes it appropriate that this promulgation of regulations also ratify such course approvals. Accordingly, VA is making the amendments to §§ 21.4263(g)(1), 21.4263(g)(4), 21.4263(g)(4)(i) and the new paragraph 21.4263(h)(1)(iii) effective September 30, 1990, which is the same as the effective date for the earliest of these approvals.

The Department of Veterans Affairs finds that good cause exists for making the amendments to remaining regulations, like the provisions of law they implement, retroactively effective on October 1, 1992.

It is necessary to implement these provisions of law as soon as possible. These provisions are intended to achieve a benefit for the individual. The maximum benefits intended in the legislation will be achieved through prompt implementation. Hence, a delayed effective date would be contrary to statutory design, would complicate administration of these provisions of law; and might result in the denial of a benefit to someone who is entitled to it.

These regulations have been reviewed by OMB (the Office of Management and Budget) under Executive Order 12866.

The Catalog of Federal Domestic Assistance numbers for the programs affected by these amended regulations are 64.120, 64.124 and 12.609.

List of Subjects in 38 CFR Part 21

Civil rights, Claims, Education, Grant programs-education, Loan programs-education, Reporting and recordkeeping requirements, Schools, Veterans, Vocational education, Vocational rehabilitation.

Approved: March 15, 1994.

Jesse Brown,
Secretary of Veterans Affairs.

For the reasons set out in the preamble, 38 CFR part 21, subpart D is amended as set forth below.

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

Subpart D—Administration of Educational Benefits; 38 U.S.C. Chapters 34, 35, and 36

1. The authority citation for part 21, subpart D continues to read as follows:

Authority: 38 U.S.C. 501(a).

2. In § 21.4263 paragraphs (g)(3), (g)(2), (g)(1) and the introductory text of paragraph (g) are redesignated paragraphs (g)(4), (g)(3), (g)(2) and (g)(1) respectively; newly redesignated paragraphs (g)(1), (g)(4) introductory

text and (g)(4)(ii) are revised; paragraph (h)(1) is revised; paragraphs (h)(3)(i) and (h)(3)(ii) are revised; paragraph (h)(4)(i) introductory text is revised and paragraph (h)(4)(iii) and its authority citation are added; and the introductory text of paragraph (i) is revised to read as follows:

§ 21.4263 Flight training—38 U.S.C. chapter 30 and 10 U.S.C. chapter 106.

(g) *Requirements for approval.* (1) For the purposes of this part, a flight course may be approved only if it is offered by a flight school. A flight school is a school or entity which meets one of the following sets of requirements.

(i) The FAA has issued the school or entity either a pilot school certificate or a provisional pilot school certificate specifying each course the school is approved to offer under 14 CFR part 141. Thus, a military aero club, air carrier or institution of higher learning with the proper certificate is a flight school.

(ii) The entity is either a Flight Training Center or an Air Carrier which does not have a pilot school or provisional pilot school certificate issued by the FAA under 14 CFR part 141, but pursuant to a Grant of Exemption letter issued by the FAA, is permitted to offer pilot training by a flight simulator instead of by use of actual aircraft.

(4) Except as provided in paragraph (g)(3) of this section, no private pilot, student pilot, recreational pilot or test course may be approved by the appropriate State approving agency. Other flight courses of a flight school may be approved if the school has submitted a written application and the State approving agency determines that all of the following requirements are met:

(ii) The course meets the requirements of 14 CFR parts 63 or 141, and is offered by a flight school described in paragraph (g)(1)(i) of this section; or meets the requirements of 14 CFR part 61 and is offered in whole or in part by a flight simulator pursuant to a grant of exemption letter issued by the FAA to the flight school offering the course.

(h) *Hourly limitations.* * * *

(1) *Flight or flight simulator instruction.* Except as provided in paragraph (h)(4) of this section, the maximum number of hours of flight instruction or flight simulator instruction which may be approved for a flight course shall not exceed the number determined by this paragraph.

(i) The maximum number of hours of solo flight instruction shall not exceed the minimum number of hours required for the course provided by FAA regulations.

(ii) The maximum number of hours of dual flight instruction shall not exceed the lesser of—

(A) The number of hours of dual flight instruction in the course outline approved by the FAA, or

(B) 120% of the minimum number of hours of dual flight instruction required for the course by FAA regulations.

(iii) The maximum number of approvable hours for a course offered in whole or in part by flight simulator may not exceed the number of hours in the FAA-approved outline.

(Authority: 38 U.S.C. 3032(f), 3231(f), 10 U.S.C. 2131(g))

(3) *Preflight briefings and postflight critiques.* * * *

(i) If these hours are on the FAA-approved outline, the maximum number of hours of preflight briefings and postflight critiques shall not exceed the number of hours on the outline exclusive of the preflight briefings and post-flight critiques which are attributable to solo flying hours that exceed the minimum number of solo flying hours for the course in 14 CFR part 141.

(ii) If these hours are not on the FAA-approved outline, they may not be approved unless the State approving agency finds that the briefings and critiques are an integral part of the course and do not precede or follow solo flying hours which exceed the minimum number of solo flying hours for the course in 14 CFR part 141. The maximum number of hours of preflight briefings and postflight critiques which may be approved for these courses may not, when added together, exceed 25 percent of the approved hours of flight instruction.

(Authority: 38 U.S.C. 3002, 3452(b), 10 U.S.C. 2131)

(4) *Waiver of limitation in approvable course hours.* (i) Flight schools that wish to have a greater number of hours of dual flight instruction approved than are permitted by paragraph (h)(1)(ii) of this section, may seek an administrative review of their approval by the Director, Education Service. Requests for such a review should be made in writing to the Director of the VA facility having jurisdiction over the flight school. The request should—

(iii) The limit on the number of hours of solo flight instruction found in

paragraph (h)(1)(i) of this section may not be waived.

(Authority: 38 U.S.C. 3032(f), 3231(f), 10 U.S.C. 2131(g))

(i) *Charges.* The appropriate State approving agency shall approve charges for tuition and fees for each flight course exclusive of charges for tuition and fees for solo flying hours which exceed the maximum permitted under paragraph (h)(1)(i) of this section and for preflight briefings and postflight critiques which precede or follow the excess solo hours.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MN13-2-6359; FRL-4863-8]

Approval And Promulgation of Implementation Plans; Minnesota

AGENCY: U.S. Environmental Protection Agency (USEPA).

ACTION: Final rule.

SUMMARY: USEPA is approving a revision to the Minnesota State Implementation Plan (SIP) for new source review in nonattainment areas, as proposed on February 23, 1994. This revision was submitted to meet longstanding requirements as well as new requirements imposed by the Clean Air Act Amendments of 1990. This revision consists of the State Rules 7005.3010 through 7005.3060, which incorporate by reference the new source review requirements specified in appendix S to 40 CFR part 51, "Emission Offset Interpretive Ruling," except for the deletion of unacceptable exemptions included in appendix S. This approval lifts the prior ban on permitting major sources and major modifications in Minnesota nonattainment areas.

EFFECTIVE DATE: This final rule is effective May 31, 1994.

ADDRESSES: A copy of this revision to the Minnesota SIP and other materials relating to this rulemaking are available for inspection at the following address: (It is recommended that you telephone John Summerhays at (312) 886-6067 before visiting the Region 5 Office.)

United States Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard (AE-17J), Chicago, Illinois 60604.