

the ability of U.S. based enterprises to compete with foreign-based enterprises.

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

#### *Unfunded Mandates*

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

#### **List of Subjects in 30 CFR Part 917**

Intergovernmental relations, Surface mining, Underground mining.

Dated: August 17, 2000.

**Allen D. Klein,**

*Regional Director, Appalachian Regional Coordinating Center.*

For the reasons set out in the preamble, Title 30, Chapter VII, Subchapter T of the Code of Federal Regulations is amended as set forth below:

#### **PART 917—KENTUCKY**

1. The authority citation for part 917 continues to read as follows:

**Authority:** 30 U.S.C. 1201 *et seq.*

2. Section 917.13 is amended by adding a new paragraph (c) to read as follows:

#### **§ 917.13 State statutory and regulatory provisions set aside.**

\* \* \* \* \*

(c) The following portions of the Kentucky Revised Statute at KRS 350.060(16) are inconsistent with section 506 of SMCRA and less effective than 30 CFR 843.11 and are set aside effective September 6, 2000:

The specific wording is the phrase “if a permit has expired or . . .” and the following sentence:

Upon the submittal of a permit renewal application, the operator or permittee shall be deemed to have timely filed the permit renewal application and shall be entitled to continue, under the terms of the expired permit, the surface coal mining operation, pending the issuance of the permit renewal.

[FR Doc. 00-22778 Filed 9-5-00; 8:45 am]

**BILLING CODE 4310-05-P**

## **DEPARTMENT OF TRANSPORTATION**

### **Coast Guard**

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

[USCG-2000-7695]

RIN 2115-AF99

#### **Traffic Separation Scheme: In the Approaches to Los Angeles-Long Beach, California**

**AGENCY:** Coast Guard, DOT.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is amending the existing Traffic Separation Scheme (TSS) in the Approaches to Los Angeles-Long Beach, California. A recent port access route study, which evaluated vessel routing and traffic management measures, validated the proposed amendments. The study was necessary because of major port improvements made to the Ports of Los Angeles and Long Beach. The amended TSS will route commercial vessels farther offshore, providing an extra margin of safety and environmental protection in the San Pedro Channel area and the entrances to the Ports of Los Angeles and Long Beach.

**DATES:** This final rule is effective on September 6, 2000.

**ADDRESSES:** Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG-2000-7695 and are available for inspection or copying at the Docket Management Facility, U.S. Department of Transportation, room PL-401, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at <http://dms.dot.gov>.

**FOR FURTHER INFORMATION CONTACT:** For questions on this rule, contact Mike Van Houten, Aids to Navigation Section Chief, Eleventh Coast Guard District, telephone 510-437-2968, e-mail [MvanHouten@d11.uscg.mil](mailto:MvanHouten@d11.uscg.mil); Lieutenant Patricia Springer, Vessel Traffic Management Officer, Eleventh Coast Guard District, telephone 510-437-2951, e-mail [Pspringer@d11.uscg.mil](mailto:Pspringer@d11.uscg.mil); or George Detweiler, Coast Guard, Office of Vessel Traffic Management (G-MWV), at 202-267-0574, e-mail [Gdetweiler@comdt.uscg.mil](mailto:Gdetweiler@comdt.uscg.mil). For questions on viewing the docket, call Dorothy Beard, Chief, Dockets, Department of Transportation, telephone 202-366-9329.

**SUPPLEMENTARY INFORMATION:**

### **Regulatory History**

On July 28, 2000, we published a notice of proposed rulemaking entitled “Traffic Separation Scheme: In the Approaches to Los Angeles-Long Beach, CA” in the **Federal Register** (65 FR 46378). We received no letters commenting on the proposed rule. No public hearing was requested, and none was held.

### **Regulatory Information**

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective in less than 30 days after publication in the **Federal Register**. Per our request, IMO suspended the existing TSS effective September 1, 2000. We are making this rule effective on the date of publication so that a TSS is in place on September 1st or as soon thereafter as possible.

### **Background and Purpose**

This rule amends the existing TSS in the approaches to Los Angeles-Long Beach adopted by the International Maritime Organization (IMO) in 1975 (“Ships Routing,” Sixth Edition 1991, IMO). These amendments—

- a. Expand the Precautionary Area approximately 2.2 nautical miles to the south;
  - b. Shift the western traffic lane approximately 2.2 nautical miles to the south; and
  - c. Shift the southern traffic lane approximately 3 miles to the west.
- In addition, this rule codifies the amended TSS into Title 33 part 167 of the Code of Federal Regulations (CFR).

### **Regulatory Evaluation**

This rule 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. The Office of Management and Budget has not reviewed it under that Order. It is not “significant” under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979).

We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. The costs and benefits of this rule are summarized below.

### **Costs**

The amendments to the TSS’s in the approaches to Los Angeles-Long Beach will result in a slight increase in transit times and operating costs for vessels using the TSS’s to call on the Los Angeles-Long Beach Port complex. Most

of the vessels using the TSS are large commercial vessels such as container ships and tankers. The following calculations assume vessels arriving or departing from the north or south are using the proposed western and southern TSS's, respectively. The distance for vessels arriving from the north (3600/year) will increase by approximately 2.35 nautical miles (nm). The distance for vessels departing to the north (3100/year) will increase by approximately 1.6 nm. The distance for vessels arriving from the south (2100/year) will increase by approximately 0.40 nm. The distance for vessels departing to the south (2600/year) will increase by approximately 1.2 nm. Assuming an average transit speed of 12 knots, the time per transit arriving from the north would increase by .20 hr, departing to the north by .14 hr, arriving from the south by .04 hr, and departing to the south by .10 hr. This corresponds to 1154 additional hours per year for vessels arriving or departing to the north [(3600 transits × .20hr/transit) + (3100 transits × .14 hr/transit)] and 344 additional hours per year for vessels arriving or departing to the south [(2100 transits × .04hr/transit) + (2600 transits × .1 hr/transit)]. Assuming a fuel cost of approximately \$600.00 per hour, the estimated increase in costs for the industry would be \$898,800.00 per year [(1154 hours + 344 hours) × \$600/hr].

Vessel operators will incur the minimal cost of plotting new coordinates on their existing charts or purchasing updated charts, when available.

### **Benefits**

The amendments to the TSS's in the approaches to Los Angeles-Long Beach will increase the margin of safety for all vessels utilizing the Ports of Los Angeles and Long Beach. The larger Precautionary Area and amended traffic lanes will decrease the chance of collisions and groundings, particularly for the deepest draft vessels, which require significant room to maneuver.

The larger Precautionary Area will give vessels of all types, sizes, and drafts more time and room to maneuver in their approach to or departure from the ports. The expanded Precautionary Area is also well adapted to the lengthened Los Angeles entrance channel.

The existing western and southern TSS's do not yield safe or practical approaches to the improved Long Beach and Los Angeles entrance channels. The lengthened entrance channels extend beyond the entrance to the existing western traffic lane. This rule shifts the western TSS to the south and the southern TSS to the west. These

changes will reduce the maneuvering difficulties for vessels approaching and departing the Los Angeles-Long Beach Port Complex. The shifts will allow even the largest vessels safe transit between both ports and the western lane.

Relocating the southern TSS westward will align the southern TSS with Long Beach channel and will allow a more direct approach to Los Angeles channel. In addition, the oil platforms will no longer be in the southern lane separation zone, which will increase the safety of the platforms and transiting vessels.

### **Small Entities**

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

This rule will have a minimal economic impact on vessels operated by small entities. The rule amends existing TSS's. This action improves safety for commercial vessels using the TSS by reducing the risk of collisions, allisions, and groundings. Vessels voluntarily transiting the TSS's will have to transit an additional 1.6 to 3.95 nautical miles per trip, depending on the route traveled. The additional transit distance results in increased vessel operating costs ranging from approximately \$84 to \$204 per trip. Vessels that tend to use the TSS's are commercial vessels such as containerships, freighters, and tankers. These vessels by their very nature are large in size and capable of operating in an offshore environment. Because of their large size most of them would not qualify as small entities. However, even if a vessel does qualify as a small entity, the impact of the additional \$84 to \$204 per trip would be an insignificant increase to the overall cost of its complete voyage.

Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this final rule will not have a significant economic impact on a substantial number of small entities.

### **Assistance for Small Entities**

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them

and participate in the rulemaking. If the rule affects your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please consult George Detweiler, Coast Guard, Marine Transportation Specialist, at 202–267–0574.

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

### **Collection of Information**

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

### **Federalism**

We have analyzed this rule under E.O. 13132 and have determined that it does not have implications for federalism under that Order.

Title I of the Ports and Waterways Safety Act (33 U.S.C. 1221 *et. seq.*) (PWSA) authorizes the Secretary to promulgate regulations to designate and amend traffic separation schemes (TSS's) to protect the marine environment. In enacting PWSA in 1972, Congress found that advance planning and consultation with the affected States and other stakeholders was necessary in the development and implementation of a TSS. Throughout the history of the development of the TSS in the approaches to Los Angeles—Long Beach, California, we consulted with the LA/LB Harbor Safety Committee (“HSC”), the affected state and federal pilot's associations, vessel operators, users, and all affected stakeholders. The LA/LB HSC, which was established by the State of California, includes all the principal waterway users of the LA/LB ports and other key agencies. The HSC was an active participant in various meetings with the Coast Guard and contributed to this rulemaking.

Presently, there are no California State laws or regulations concerning the same subjects as are contained in this rule. We understand the state does not contemplate issuing any such rules. However, it should be noted, that by virtue of the PWSA authority, the TSS

in this rule will preempt any state rule on the same subject.

In order to be applicable to foreign flag vessels on the high seas, TSS's must be submitted to, approved by, and implemented by the International Maritime Organization (IMO). Individual states are not represented at IMO; that is the role of the federal government. The Coast Guard is the principal United States agency responsible for advancing the interests of the United States at IMO. We recognize, however, the interest of all local stakeholders as we work at IMO to advance the goals of this TSS. We continued to work closely with such stakeholders in implementing the final rule to ensure that the waters in the approaches to Los Angeles—Long Beach affected by this rule are made safer and more environmentally secure.

#### Unfunded Mandates

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

#### Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

#### Civil Justice Reform

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

#### Protection of Children

We have analyzed this rule under E.O. 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

#### Environment

We considered the environmental impact of this rule and concluded that, under figure 2–1, paragraph (34)(I) of Commandant Instruction M16475.IC, this rule is categorically excluded from

further environmental documentation. This rule amends an existing traffic separation scheme. These amendments will enhance safety by routing commercial vessels farther offshore which will provide an extra margin of safety and environmental protection in the San Pedro Channel area and the entrances to the Ports of Los Angeles and Long Beach. A “Categorical Exclusion Determination” is available in the docket where indicated under **ADDRESSES**.

#### List of Subjects in 33 CFR Part 167

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

For the reasons discussed in the preamble, the Coast Guard 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. Following § 167.452, add §§ 167.500 through 167.503 to read as follows:

##### § 167.500 In the approaches to Los Angeles-Long Beach Traffic Separation Scheme: General.

The Traffic Separation Scheme in the approaches to Los Angeles-Long Beach consists of three parts: a Precautionary Area, a Western Approach, and a Southern Approach. The specific areas in the approaches to Los Angeles-Long Beach are described in §§ 167.501 through 167.503. The geographic coordinates in §§ 167.501 through 167.503 are defined using North American Datum 1983 (NAD 83).

##### § 167.501 In the approaches to Los Angeles/Long Beach: Precautionary area.

(a) The precautionary area consists of the water area enclosed by the Los Angeles-Long Beach breakwater and a line connecting Point Fermin Light at 33°42.30'N, 118°17.60'W, with the following geographical positions:

Latitude	Longitude
33°35.50'N .....	118°17.60'W.
33°35.50'N .....	118°09.00'W.
33°37.70'N .....	118°06.50'W.
33°43.40'N .....	118°10.80'W.

(b) Pilot boarding areas are located within the precautionary area described in paragraph (a) of this section. Specific regulations pertaining to vessels operating in these areas are contained in 33 CFR 165.1109(d).

##### § 167.502 In the approaches to Los Angeles-Long Beach: Western approach.

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

Latitude	Longitude
33°37.70'N .....	118°17.60'W.
33°36.50'N .....	118°17.60'W.
33°36.50'N .....	118°23.10'W.
33°43.20'N .....	118°36.90'W.
33°44.90'N .....	118°35.70'W.
33°37.70'N .....	118°20.90'W.

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

Latitude	Longitude
33°38.70'N .....	118°17.60'W.
33°38.70'N .....	118°20.60'W.
33°45.80'N .....	118°35.10'W.

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

Latitude	Longitude
33°35.50'N .....	118°17.60'W.
33°35.50'N .....	118°23.43'W.
33°42.30'N .....	118°37.50'W.

##### § 167.503 In the approaches to Los Angeles-Long Beach TSS: Southern approach.

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

Latitude	Longitude
33°35.50'N .....	118°10.30'W.
33°35.50'N .....	118°12.75'W.
33°19.70'N .....	118°03.50'W.
33°19.00'N .....	118°05.60'W.

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

Latitude	Longitude
33°35.50'N .....	118°09.00'W.
33°20.00'N .....	118°02.30'W.

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

Latitude	Longitude
33°35.50'N .....	118°14.00'W.
33°18.70'N .....	118°06.75'W.

Dated: August 31, 2000.

**Joseph J. Angelo,**

*Acting Assistant Commandant for Marine Safety and Environmental Protection.*

[FR Doc. 00-22944 Filed 9-1-00; 2:42 pm]

BILLING CODE 4910-15-P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### 42 CFR Parts 36 and 36a

#### Currently Effective Indian Health Service Eligibility Regulations

**AGENCY:** Indian Health Service.

**ACTION:** Final Rule; Correction.

**SUMMARY:** This document corrects a final rule published on October 28, 1999, governing eligibility for services from the Indian Health Service. In that rule, HHS renumbered and suspended the regulations that were, and continue to be under a Congressional moratorium. This correction clarifies that only subparts A through G of part

36 (as it appears in the Code of Federal Regulations edition of October 1, 1999) were intended to be moved to the renumbered part and suspended.

**DATES:** Effective October 28, 1999.

#### FOR FURTHER INFORMATION CONTACT:

Leslie M. Morris, Director, Division of Regulatory and Legal Affairs, Indian Health Service, suite 450, 12300 Twinbrook Parkway, Rockville, MD 20852, telephone: (301) 443-1116. (This is not a toll-free number.).

**SUPPLEMENTARY INFORMATION:** In the **Federal Register** of October 28, 1999 (64 FR 58318), The Indian Health Service (we) intended to republish the eligibility regulations that were still in effect due to a Congressional moratorium but which no longer appeared in the Code of Federal Regulations. We also intended to renumber the rules subject to the moratorium from part 36 to part 36a and suspend them. However, in the amendatory instructions, we did not specify that only subparts A through G were being renumbered as part 36a and

suspended while subparts H through J remained in the current part 36.

#### Correction

I. Beginning on page 58318 in the third column, the heading "PART 36—[REDESIGNATED AS PART 36a]" is removed, and instruction paragraphs 1. through 5. are corrected to read as set forth below and a new instruction 6. is added:

1. A new part 36a, Indian Health, is added and subparts A through G of part 36 are redesignated as Subparts A through G of the new part 36a.

2. The authority of part 36a is added to read as set forth below:

**Authority:** Sec. 3, 68 Stat. 674; 42 U.S.C. 2003, 42 Stat. 208, sec. 1, 68 Stat. 674; 25 U.S.C. 13, 42 U.S.C. 2001, unless otherwise noted.

3. In newly redesignated Part 36a, in the redesignated section and paragraph listed in the first column below, references to the sections listed in the second column are revised to read as shown in the third column:

Redesignated section	Old section reference	New section reference
36a.12 (a)(2), (a)(3), and (b)(1) .....	36.15 .....	36a.15
36a.15 (b)(1) .....	36.12(a) (1) and (3) .....	36a.12(a) (1) and (3)
36a.16(a) .....	36.12(a) .....	36a.12(a)
36a.33(a) .....	36.32(a) .....	36a.32(a)
36a. 33(b) .....	36.14 .....	36a.14
36a.34(b) .....	36.14 .....	36a.14
36a.42 .....	36.41 .....	36a.41
36a.43 .....	36.41 .....	36a.41
36a.53 .....	36.51 .....	36a.51
36a.53 .....	36.54 .....	36a.54
36a.56 .....	36.54 .....	36a.54

4. Redesignated part 36a is suspended indefinitely.

5. The authority of part 36 continues to read as follows:

**Authority:** 25 U.S.C. 13; sec 3, 68 stat. 674 (42 U.S.C., 2001, 2003); sec. 1, 42 Stat. 208 (25 U.S.C. 13); 42 U.S.C. 2001, unless otherwise noted.

6. New subparts A through G are added to the remaining text of part 36 (Subparts H through J) to read as set forth below.

II. On page 58319, at the bottom of the 1st column, a line of 5 asterisks should appear below the listing for § 36.61 and the authority citation should be removed.

Dated: August 29, 2000.

**Brian P. Burns,**

*Deputy Assistant Secretary for Information and Resource Management.*

[FR Doc. 00-22703 Filed 9-5-00; 8:45 am]

BILLING CODE 4160-16-P

## FEDERAL EMERGENCY MANAGEMENT AGENCY

### 44 CFR Chapter I and Part 295

RIN 3067-AD12

#### Disaster Assistance: Cerro Grande Fire Assistance

**AGENCY:** Federal Emergency Management Agency (FEMA).

**ACTION:** Correction of interim final rule.

**SUMMARY:** This document corrects the interim final rule published on Monday, August 28, 2000 (65 FR 52260). The rule sets out procedures for applicants to obtain assistance for injuries and property damage resulting from the Cerro Grande fire.

**EFFECTIVE DATE:** August 28, 2000.

#### FOR FURTHER INFORMATION CONTACT:

Nathan Bergerbest, Office of the General Counsel, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646-2685,

(telefax) (202) 646-4536, or (email) Nathan.Bergerbest@fema.gov.

**SUPPLEMENTARY INFORMATION:** The Federal Emergency Management Agency published an interim final rule on August 28, 2000 that sets out procedures for applicants to obtain assistance for injuries and property damage resulting from the Cerro Grande fire in New Mexico in May 2000. As published the final rule includes an erroneous date that can be misleading to applicants.

Accordingly, the final rule published as FR Doc. 00-21926 on August 28, 2000, 65 FR 52260 through 52279, is corrected as follows:

On page 52260, in the third column, last paragraph, the date October 2, 2000 is corrected to read October 27, 2000.

Dated: August 30, 2000.

**Ernest B. Abbott,**  
*General Counsel.*

[FR Doc. 00-22803 Filed 9-5-00; 8:45 am]

BILLING CODE 6718-01-P