

DEPARTMENT OF TRANSPORTATION**Coast Guard****33 CFR Part 167**

[CGD 97-004]

RIN 2115-AF42

Traffic Separation Scheme in the Approaches to Delaware Bay**AGENCY:** Coast Guard, DOT.**ACTION:** Final rule.

SUMMARY: The Coast Guard is codifying the existing traffic separation scheme (TSS) in the approaches to Delaware Bay. The current scheme consists of an Eastern approach, a Southeastern approach, a two-way route for use by tug and tow traffic, and a precautionary area configured to exclude shoal areas too shallow for deep draft vessels. Its arrangement separates large inbound vessels from tug and barge traffic on traditional New Jersey coastal routes. The TSS reduces the number of near misses and the probability of an incident that could result in a major chemical or petroleum oil spill.

DATES: This final rule is effective April 10, 2000.

ADDRESSES: Documents mentioned in this preamble as being available in the docket are part of docket CGD 97-004 and will be available for inspection or copying at room 3406, U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593-0001, between 9:30 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: For questions on this rule, contact George Detweiler, Office of Vessel Traffic Management, Coast Guard, at 202-267-0574; e-mail: Gdetweiler@comdt.uscg.mil.

SUPPLEMENTARY INFORMATION:**Regulatory History**

On May 9, 1997, we published a notice of proposed rulemaking (NPRM) entitled "Traffic Separation Scheme in the Approaches to Delaware Bay" in the **Federal Register** (62 FR 25576). We did not receive any letters commenting on the proposed rule. No public hearing was requested, and none was held.

Background and Purpose

The 1978 amendments to the Ports and Waterways Safety Act (PWSA), 33 U.S.C. 1223(c), require that a port access route study (PARS) be conducted before establishing or adjusting a traffic separation scheme (TSS). A TSS is an internationally recognized routing

measure used to minimize the risk of collision by separating vessels, through traffic lanes, into opposing streams of traffic. To be internationally recognized, a TSS must be approved by the International Maritime Organization (IMO). The IMO approves a TSS only if the TSS complies with IMO principles and guidelines on ships routing. Rule 10 of the International Regulations for Preventing Collisions at Sea, 1972 (COLREG 1972) prescribes the conduct of vessels within or near a TSS adopted by IMO.

The Traffic Separation Scheme in the Approaches to Delaware Bay was originally adopted and implemented by the Inter-Governmental Maritime Consultative Organization (as the IMO was formerly known) on October 28, 1969. A change to the Southeastern Approach lanes was implemented on March 15, 1976.

On March 22, 1994, a notice in the **Federal Register** (59 FR 14126) announced that we were conducting a PARS for the Approaches to Delaware Bay. We started the PARS because of concerns expressed by the maritime community about the many near misses between deep-draft vessels and tugs with tows at the Delaware Bay Entrance. A notice of study results for the Approaches to Delaware Bay was published in the **Federal Register** on September 22, 1995 (60 FR 49237).

The study showed that navigation safety, economic, and environmental considerations necessitated amending the TSS to better separate large inbound vessels from tug and barge traffic transiting easterly and northerly along their traditional New Jersey coastal route. In the old configuration near misses occurred frequently. The probability of a major chemical or petroleum oil spill was too great to ignore. Therefore, we proposed to IMO that the Eastern Approach TSS be adjusted; that a Two-Way Traffic Route for tug and barge traffic entering and departing Delaware Bay be established; and that the precautionary area be reconfigured. IMO adopted and implemented our recommendations in 1996.

We received no comments concerning our NPRM. Since the IMO adopted and implemented traffic separation scheme and precautionary area exist, and have been used since 1996, we are publishing this rule to update Subpart B of 33 CFR part 167 to include a description of the Off Delaware Bay Approach Traffic Separation Scheme and Precautionary Area. By codifying the existing TSS and precautionary area, we will make the Code of Federal Regulations consistent with IMO's Ships' Routeing Guide.

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.

This rule will not impose any costs on industry nor will it impose any costs on the U.S. Coast Guard or Federal Government. The benefit of this rule is to assist in handling the increase of total tonnage in the region and to maintain what is considered to be an increased trend rate of 100 large capacity vessels per year.

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.

The rule has no costs to industry and we have received no comments from small entities regarding this rule. 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 process. The traffic separation scheme is currently in use and has no economic impact on any small entities.

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 this rule does not have implications for federalism under that Order.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those costs. This rule will not impose an unfunded mandate.

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 M16475.1C, this rule is categorically excluded from further environmental documentation. A "Categorical Exclusion Determination" is available in the docket where indicated under ADDRESSES.

List of Subjects 33 CFR Part 167

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

For 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. Add § 167.5(f) to read as follows:

§ 167.5 Definitions.

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(f) *Two-way route* means a route within defined limits inside which two-way traffic is established, aimed at providing safe passage of ships through waters where navigation is difficult or dangerous.

3. Add § 167.170 to read as follows:

§ 167.170 Off Delaware Bay Approach Traffic Separation Scheme: General.

The Off Delaware Bay Approach Traffic Separation Scheme consists of four parts: an Eastern Approach, a Southeastern Approach, a Two-Way Traffic Route, and a Precautionary Area. The specific areas in the Off Delaware Bay Approach Traffic Separation Scheme and Precautionary Area are described in §§ 167.171 through 167.174.

4. Add § 167.171 to read as follows:

§ 167.171 Off Delaware Bay: Eastern approach.

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

Latitude	Longitude
38°46.30'N	74°34.45'W
38°46.33'N	74°55.75'W
38°47.45'N	74°55.40'W
38°47.35'N	74°34.50'W

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

Latitude	Longitude
38°48.32'N	74°55.30'W
38°49.80'N	74°34.60'W

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

Latitude	Longitude
38°45.45'N	74°56.20'W

Latitude	Longitude
38°44.45'N	74°34.35'W

5. Add § 167.172 to read as follows:

§ 167.172 Off Delaware Bay: Southeastern approach.

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

Latitude	Longitude
38°27.00'N	74°42.30'W
38°43.40'N	74°58.00'W
38°44.20'N	74°57.20'W
38°27.60'N	74°41.30'W

(b) A traffic lane for north-westbound traffic is established between separation zone and a line connecting the following geographic positions:

Latitude	Longitude
38°28.80'N	74°39.30'W
38°45.10'N	74°56.60'W

(c) A traffic lane for south-eastbound traffic is established between the separation zone and a line connecting the following geographic positions:

Latitude	Longitude
38°42.80'N	74°58.90'W
38°27.00'N	74°45.40'W

6. Add § 167.173 to read as follows:

§ 167.173 Off Delaware Bay: Two-Way Traffic Route.

The Two-Way Traffic Route is recommended for use predominantly by tug and tow traffic transiting to and from the northeast in order to separate such traffic from large, inbound vessel traffic.

(a) The Two-Way Traffic Route is bounded on the west and south by a line connecting the following geographic positions:

Latitude	Longitude
38°50.75'N	75°03.40'W
38°47.50'N	75°01.80'W
38°48.32'N	74°55.30'W
38°50.20'N	74°49.73'W
39°00.00'N	74°40.23'W

(b) The two-way traffic route is bounded on the east and north by a line connecting the following geographic positions:

Latitude	Longitude
39°00.00'N	74°41.00'W
38°50.48'N	74°50.30'W
38°48.80'N	74°55.25'W

Latitude	Longitude
38°48.33'N	74°59.30'W
38°49.10'N	75°01.65'W
38°51.27'N	75°02.83'W

7. Add § 167.174 to read as follows:

§ 167.174 Off Delaware Bay: Precautionary area.

A precautionary area is established as follows: from 38°42.80'N, 74°58.90'W; then northerly by an arc of eight nautical miles centered at 38°48.90'N, 75°05.60'W to 38°48.32'N, 74°55.30'W; then westerly to 38°47.50'N, 75°01.80'W; then northerly to 38°50.75'N, 75°03.40'W; then northeasterly to 38°51.27'N, 75°02.83'W; then northerly to 38°54.80'N, 75°01.60'W; then westerly by an arc of 6.7 nautical miles centered at 38°48.90'N, 75°05.60'W to 38°55.53'N, 75°05.87'W; then southwesterly to 38°54.00'N, 75°08.00'W; then southerly to 38°46.60'N, 75°03.55'W; then southeasterly to 38°42.80'N, 74°58.90'W.

Datum: NAD 83.

Dated: February 18, 2000.

Joseph J. Angelo,

Acting Assistant Commandant for Marine Safety and Environmental Protection.

[FR Doc. 00-5805 Filed 3-9-00; 8:45 am]

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POSTAL SERVICE

39 CFR Part 111

Postage and Fees Refunds; Unused Adhesive Stamps and Stamps Affixed to Unmailed Matter

AGENCY: Postal Service.

ACTION: Final rule; comments acceptable.

SUMMARY: The Postal Service is amending a portion of its rule on postage and fees refunds, to clarify that payments may be made in some cases for unused adhesive stamps and adhesive stamps affixed to unmailed matter. The purpose of this change is to allow the Postal Service to test market programs that involve the use of postage stamps to pay for goods and services.

DATES: Effective March 9, 2000.

Comments must be received on or before April 10, 2000.

ADDRESSES: Mail or deliver written comments to Manager, Advertising Mail, USPS Headquarters, Room 5413, 475 L'Enfant Plaza SW, Washington, DC 20260-2690. Copies of all written comments will be available for inspection and photocopying between 9

a.m. and 4 p.m., Monday through Friday, at the above address.

FOR FURTHER INFORMATION CONTACT:
Chris C. Conboy, (202) 268-3120.

SUPPLEMENTARY INFORMATION: Under section P014.2.7 of the Domestic Mail Manual (DMM), the Postal Service currently disallows refunds for unused adhesive stamps and adhesive stamps affixed to unmailed matter. While this policy is necessary to promote the efficiency of ordinary retail postal operations, the current DMM language hampers the testing and development of innovative marketing programs such as the Micropayment Program. Under this program, vendors would be allowed to receive payment for goods and services, priced between \$1.00 and \$10.00, in the form of postage stamps affixed to a postcard or a similar item. The vendors, in turn, would return the stamps to the Postal Service and receive payments in an amount less than the face value of the stamps. As amended, section P014.2.7 of the DMM will more clearly allow payment for unused adhesive stamps and stamps affixed to unmailed matter in connection with marketing programs approved by the Senior Vice President for Marketing, thus allowing tests of the Micro Payment Program and similar initiatives to proceed.

List of Subjects 39 CFR Part 111

Administrative practice and procedure, Postal Service.

Accordingly, the Postal Service hereby amends section P014.2.7 of the Domestic Mail Manual (DMM), which is incorporated by reference in the Code of Federal Regulations. See 39 CFR Part 111.

PART 111—[AMENDED]

1. The authority citation for 39 CFR part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 414, 3001-3011, 3201-3219, 3403-3406, 3621, 3626, 5001.

2. Amend section P014.2.7 of the Domestic Mail Manual (DMM) to read as follows:

P POSTAGE AND PAYMENT METHODS

P000 Basic Information

P010 General Standards

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P014 Refunds and Exchanges

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2.0 POSTAGE AND FEES REFUNDS

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2.7 Unallowable Refunds

Refunds are not made for the following:

- a. An application fee to use permit imprints.
- b. Collect on delivery (COD), Express Mail insurance, insured, and registered fees after the USPS accepts the article, even if the article is later withdrawn from the mail.
- c. Unused adhesive stamps (may be exchanged under 1.1 through 1.5).
- d. Adhesive stamps affixed to unmailed matter.

These limits on refunds are not intended to prohibit payments for unused adhesive stamps and adhesive stamps affixed to unmailed matter in connection with an authorized marketing program.

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Stanley F. Mires,

Chief Counsel, Legislative.

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BILLING CODE 7710-12-P

POSTAL SERVICE

39 CFR Part 111

Changes in Procedures for Standard Mail Destination Entry Mailings

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: The Postal Service, after considering the written responses to its proposed rule published in the **Federal Register** on December 22, 1999 (64 FR 71702-71704), requesting public comment on proposed amendments to the Domestic Mail Manual, gives notice that it is implementing amendments to procedures for Standard Mail Destination Entry Mailings.

EFFECTIVE DATE: March 12, 2000.

FOR FURTHER INFORMATION CONTACT:

RoseMarie Gay (202) 268-7810.

SUPPLEMENTARY INFORMATION: On December 22, 1999, the Postal Service published in the **Federal Register** (64 FR 71702-71704) a proposal to amend the Domestic Mail Manual procedures for setting appointments for mailings of Standard Mail (A) and Standard Mail (B) from once a month to once a week for recurring appointments.

In addition, the Postal Service proposed that if a mailer requests an appointment at a destination delivery unit (DDU) for a Standard Mail (A) or Standard Mail (B) mailing, then the 5-digit ZIP Codes of the mail being deposited must be provided at the time of request. Also, consistent with current standards for Standard Mail (A), a