

# **PART 45—REMOVAL OF TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES, WITHOUT PAYMENT OF TAX, FOR USE OF THE UNITED STATES**

■ 46. The authority citation for part 45 is revised to read as follows:

**Authority:** 26 U.S.C. 5702–5705, 5723, 5741, 5751, 5762, 5763, 6313, 7212, 7342, 7606, 7805; 44 U.S.C. 3504(h).

■ 47. In § 45.11,

■ a. The definition of “Roll-your-own tobacco” is amended by adding at the end before the period the words “or cigars, or for use as wrappers thereof”; and

■ b. The definition of “Package” is revised to read as follows:

## **§ 45.11 Meaning of terms.**

\* \* \* \* \*

*Package.* The immediate container in which tobacco products, processed tobacco, or cigarette papers or tubes are put up by the manufacturer and offered for sale or delivery to the ultimate consumer. For purposes of this definition, a container of processed tobacco, the contents of which weigh 10 pounds or less (including any added non-tobacco ingredients or constituents), that is removed within the meaning of this part, is deemed to be a package offered for sale or delivery to the ultimate consumer.

\* \* \* \* \*

## **§ 45.45a [Amended]**

■ 48. In § 45.45a, paragraph (a) is amended by removing the last sentence.

■ 49. In § 45.45b, paragraph (a) and the Office of Management and Budget control number reference at the end are revised to read as follows:

## **§ 45.45b Notice for roll-your-own tobacco.**

(a) *Product designation.* Every package of roll-your-own tobacco, before removal subject to tax, must have adequately imprinted on it, or on a label securely affixed to it, the applicable designation “roll-your-own tobacco”, “cigarette tobacco”, “cigar tobacco”, “cigarette wrapper”, or “cigar wrapper”.

\* \* \* \* \*

(Approved by the Office of Management and Budget under control number 1513–0091)

■ 50. Section 45.45c is revised to read as follows:

## **§ 45.45c Package use-up rule.**

(a) A manufacturer of pipe tobacco or roll-your-own tobacco may remove packages of such products bearing the designation “Tax Class L” (to designate pipe tobacco) or “Tax Class J” (to designate roll-your-own tobacco) only if

such packages were in use prior to April 1, 2009, and such manufacturer may continue to remove packages bearing those designations until July 1, 2009.

(b) A manufacturer may, until August 1, 2009, remove roll-your-own tobacco for which the applicable designation is “cigar tobacco,” “cigarette wrapper,” or “cigar wrapper” even if the packages of such products do not meet the requirements of § 40.216(b).

Signed: April 15, 2009.

**John J. Manfreda,**

*Administrator.*

Approved: May 26, 2009.

**Timothy E. Skud,**

*Deputy Assistant Secretary (Tax, Trade, and Tariff Policy).*

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# **DEPARTMENT OF DEFENSE**

## **Department of the Navy**

### **32 CFR Part 706**

#### **Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972**

**AGENCY:** Department of the Navy, DoD.

**ACTION:** Final rule.

**SUMMARY:** The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Deputy Assistant Judge Advocate General (Admiralty and Maritime Law) has determined that USS INDEPENDENCE (LCS 2) is a vessel of the Navy which, due to its special construction and purpose, cannot fully comply with certain provisions of the 72 COLREGS without interfering with its special function as a naval ship. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

**DATES:** This rule is effective June 22, 2009 and is applicable beginning June 11, 2009.

#### **FOR FURTHER INFORMATION CONTACT:**

Lieutenant Commander Ted Cook, JAGC, U.S. Navy, Admiralty Attorney, (Admiralty and Maritime Law), Office of the Judge Advocate General, Department of the Navy, 1322 Patterson Ave., SE., Suite 3000, Washington Navy Yard, DC 20374–5066, telephone number: 202–685–5040.

**SUPPLEMENTARY INFORMATION:** Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR part 706.

This amendment provides notice that the Deputy Assistant Judge Advocate General (Admiralty and Maritime Law), under authority delegated by the Secretary of the Navy, has certified that USS INDEPENDENCE (LCS 2) is a vessel of the Navy which, due to its special construction and purpose, cannot fully comply with the following specific provisions of 72 COLREGS without interfering with its special function as a naval ship: Annex I paragraph 2 (a)(i), pertaining to the location of the forward masthead light at a height not less than 12 meters above the hull; Annex I, paragraph 3(a), pertaining to the location of the forward masthead light in the forward quarter of the ship, and the horizontal distance between the forward and after masthead lights; Annex I, paragraph 2(f)(i), pertaining to the placement of the masthead light or lights above and clear of all other lights and obstructions; Annex I, paragraph 3(c), pertaining to the task light’s horizontal distance from the fore and aft centerline of the vessel in the athwartship direction; and Rule 21(a), pertaining to the arc of visibility of the aft masthead light. The Deputy Assistant Judge Advocate General (Admiralty and Maritime Law) has also certified that the lights involved are located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this vessel in a manner differently from that prescribed herein will adversely affect the vessel’s ability to perform its military functions.

#### **List of Subjects in 32 CFR Part 706**

Marine safety, Navigation (water), and Vessels.

■ For the reasons set forth in the preamble, the Navy amends part 706 of title 32 of the Code of Federal Regulations as follows:

#### **PART 706—CERTIFICATIONS AND EXEMPTIONS UNDER THE INTERNATIONAL REGULATIONS FOR PREVENTING COLLISIONS AT SEA, 1972**

■ 1. The authority citation for part 706 continues to read as follows:

**Authority:** 33 U.S.C. 1605.

■ 2. Section 706.2 is amended as follows:

■ A. In Table One by adding, in alpha numerical order by vessel number, an entry for USS INDEPENDENCE (LCS 2);

■ B. In Table Four, Paragraph 15 by adding, in alpha numerical order by vessel number, an entry for USS INDEPENDENCE (LCS 2);

■ C. In Table Four, Paragraph 16 by adding, in alpha numerical order by vessel number, an entry for USS INDEPENDENCE (LCS 2); and

■ D. In Table Five by adding, in alpha numerical order by vessel number, an entry for USS INDEPENDENCE (LCS 2).

■ The additions read as follows:

**§ 706.2 Certifications of the Secretary of the Navy Under Executive Order 11964 and 33 U.S.C. 1605.**

\* \* \* \* \*

TABLE ONE

Vessel	Number	Distance in meters of forward masthead light below minimum required height. § 2(a)(i) Annex I
USS INDEPENDENCE .....	LCS 2 .....	4.91
* .....	* .....	*

\* \* \* \* \* Table Four 15. \* \* \*

Vessel	Number	Horizontal distance from the fore and aft centerline of the vessel in the athwart-ship direction
USS INDEPENDENCE .....	LCS 2 .....	1.31 meters.
* .....	* .....	*

\* \* \* \* \* 16. \* \* \*

Vessel	Number	Obstruction angle relative ship's headings
USS INDEPENDENCE .....	LCS 2 .....	71° thru 73°. 76° thru 78°. 287° thru 289°.
* .....	* .....	*

\* \* \* \* \*

TABLE FIVE

Vessel	Number	Masthead lights not over all other lights and obstructions. Annex I, sec. 2(f)	Forward masthead light not in forward quarter of ship. Annex I, sec. 3(a)	After masthead light less than 1/2 ship's length aft of forward masthead light. Annex I, sec. 3(a)	Percentage horizontal separation attained
USS INDEPENDENCE .....	LCS 2 .....	.....	X	X	18.8
* .....	* .....	*	*	*	*

\* \* \* \* \*

Approved: June 11, 2009.

**M. Robb Hyde,**

*Commander, JAGC, U.S. Navy, Deputy Assistant Judge Advocate, General (Admiralty and Maritime Law).*

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 117

[Docket No. USCG-2009-0449]

RIN 1625-AA09

#### **Drawbridge Operation Regulation; Mermentau River, Mile 68.0, at Mermentau, Acadia and Jefferson Davis Parishes, LA**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of temporary deviation from regulations.

**SUMMARY:** The Commander, Eighth Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the BNSF Swing Bridge across the Mermentau River, mile 68.0, in Mermentau, Acadia and Jefferson Davis Parishes, Louisiana. The deviation is necessary to repair the pinion gear that turns the center pivot pier of the bridge. This deviation allows the bridge to remain closed for 34 hours to accomplish the work.

**DATES:** This deviation is effective from 5 a.m. on June 29, 2009 until 5 p.m. on June 30, 2009.

**ADDRESSES:** Documents mentioned in this preamble as being available in the docket are part of docket USCG-2009-0449 and are available online by going to <http://www.regulations.gov>, selecting the Advanced Docket Search option on the right side of the screen, inserting USCG-2009-0414 in the Docket ID box, pressing Enter, and then clicking on the item in the Docket ID column. This material is also available for inspection or copying at the Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or e-mail David M. Frank, Bridge Administration Branch, Coast Guard; telephone 504-671-2128, e-mail [David.M.Frank@uscg.mil](mailto:David.M.Frank@uscg.mil). If you have

questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

**SUPPLEMENTARY INFORMATION:** The BNSF Railway Company has requested a temporary deviation from the operating schedule of the BNSF Swing Bridge across the Mermentau River, mile 68.0, in Mermentau, Acadia and Jefferson Davis Parishes, Louisiana. The closure is necessary to allow for repairs to the bridge.

Presently, the bridge opens on signal for the passage of vessels. This deviation will allow the bridge to remain in the closed-to-navigation position from 7 a.m. on Monday, June 29, 2009 until 5 p.m. on Tuesday, June 30, 2009. Navigation on the waterway consists of tugs with tows, fishing vessels and recreational craft. Due to prior experience and coordination with waterway users it has been determined that this closure will not have a significant effect on these vessels.

The vertical clearance of the swing bridge in the closed-to-navigation position is 10.0 feet and unlimited in the open-to-navigation position. No alternate routes are available. As this work is proposed during hurricane season, if any storms are in the Gulf of Mexico, the work may be postponed and rescheduled.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the designated time period. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: May 28, 2009.

**David M. Frank,**

*Bridge Administrator.*

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket No. USCG 2009-0408]

#### **Safety Zone; Independence Day Celebration for the City of San Francisco, CA**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of enforcement of regulation.

**SUMMARY:** The Coast Guard will enforce the Independence Day Celebration for the City of San Francisco Fireworks safety zone from 11 a.m. through 10

p.m. on July 4, 2009. The fireworks will be fired simultaneously from two separate locations: Location 1 will be held 1,000 feet from Pier 39 in position 37° 48.710' N and 122° 24.464' W on July 4, 2009 and Location 2 will be fired from the Municipal Pier in Aquatic park in position 37° 48.611' N and 122° 25.532' W on July 4, 2009. This action is necessary to control vessel traffic and to ensure the safety of event participants and spectators. During the enforcement period, unauthorized persons or vessels are prohibited from entering into, transiting through, or anchoring in the safety zone, unless authorized by the Patrol Commander (PATCOM).

**DATES:** The regulations in 33 CFR 165.1191 will be enforced from 11 a.m. through 10 p.m. on July 4, 2009.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this notice, call or e-mail Lieutenant Junior Grade Simone Mausz, U.S. Coast Guard, Waterways Safety Division; telephone 415-399-7442, e-mail [simone.mausz@uscg.mil](mailto:simone.mausz@uscg.mil).

**SUPPLEMENTARY INFORMATION:** The Coast Guard will enforce the Independence Day Celebration for the City of San Francisco Fireworks safety zone from 11 a.m. through 10 p.m. on July 4, 2009. The fireworks will be fired simultaneously from two separate locations: Location 1 will be held 1,000 feet from Pier 39 in position 37° 48.710' N and 122° 24.464' W on July 4, 2009 and Location 2 will be fired from the Municipal Pier in Aquatic Park in position 37° 48.611' N and 122° 25.532' W on July 4, 2009.

For Location 1, during the loading of the fireworks barge, while the barge is being towed to the display location, and until the start of the fireworks display, the safety zone applies to the navigable waters around and under the fireworks barge within a radius of 100 feet. Fifteen minutes before and during the twenty minute fireworks display, the area to which this safety zone applies will increase in size to encompass the navigable waters around and under the fireworks barge within a radius of 1,000 feet. Loading of the pyrotechnics onto the fireworks barge is scheduled to commence at 11 a.m. on July 4, 2009, and will take place at Pier 50 in San Francisco. Towing of the barge from Pier 50 to the display location is scheduled to take place on July 4, 2009 at 8 p.m. During the fireworks display, scheduled to start at approximately 9:30 p.m., the fireworks barge will be located approximately 1,000 feet off of Pier 39 in position 37° 48.710' N, 122° 24.464' W (NAD 83). This safety zone will be in