

**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 MOBILE BAY (CG 53) 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 February 8, 2010 and is applicable beginning January 28, 2010.

**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 MOBILE BAY (CG 53) 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 3(a), pertaining to the horizontal distance between the forward and after masthead lights. 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 in Table Five by revising the entry for USS MOBILE BAY (CG 53), to read as follows:

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

\* \* \* \* \*

TABLE FIVE

Vessel	No.	Masthead lights not over all other lights and obstructions. Annex I, Section 2(f)	Forward mast-head light not in forward quarter of ship. Annex I, section 3(a)	After masthead light less than 1/2 ship's length aft of forward masthead light. Annex I, Section 3(a)	Percentage horizontal separation attained
USS MOBILE BAY .....	CG 53 .....	*	X	X	36.8
* .....	* .....	*	*	*	*

\* \* \* \* \*  
Approved: January 28, 2010.

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

[FR Doc. 2010-2620 Filed 2-5-10; 8:45 am]

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**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 165**

**Security Zone; Escorted Vessels, Charleston, SC, Captain of the Port Zone**

*CFR Correction*

In Title 33 of the Code of Federal Regulations, Parts 125 to 199, revised as of July 1, 2009, on page 722, add § 165.769 to read as follows:

**§ 165.769 Security Zone; Escorted Vessels, Charleston, South Carolina, Captain of the Port**

(a) *Definitions.* The following definitions apply to this section:  
*COTP* means Captain of the Port Charleston, SC.

*Designated representatives* means Coast Guard Patrol Commanders including Coast Guard coxswains, petty officers and other officers operating Coast Guard vessels, and federal, state, and local officers designated by or assisting the COTP, in the enforcement of the security zone.

*Escorted vessel* means a vessel, other than a large U.S. naval vessel as defined in 33 CFR 165.2015, that is accompanied by one or more Coast

Guard assets or other Federal, State or local law enforcement agency assets clearly identifiable by lights, vessel markings, or with agency insignia as listed below:

Coast Guard surface or air asset displaying the Coast Guard insignia.

State and/or local law enforcement asset displaying the applicable agency markings and/or equipment associated with the agency.

When escorted vessels are moored, dayboards or other visual indications such as lights or buoys may be used. In all cases, broadcast notice to mariners will be issued to advise mariners of these restrictions.

*Minimum safe speed* means the speed at which a vessel proceeds when it is fully off plane, completely settled in the water and not creating excessive wake. Due to the different speeds at which vessels of different sizes and configurations may travel while in compliance with this definition, no specific speed is assigned to minimum safe speed. In no instance should minimum safe speed be interpreted as a speed less than that required for a particular vessel to maintain steerageway. A vessel is not proceeding at minimum safe speed if it is:

(1) On a plane;

(2) In the process of coming up onto or coming off a plane; or

(3) Creating an excessive wake.

(b) *Regulated area*. All navigable waters, as defined in 33 CFR 2.36, within the Captain of the Port Zone, Charleston, South Carolina 33 CFR 3.35–15.

(c) *Security zone*. A 300-yard security zone is established around each escorted vessel within the regulated area described in paragraph (b) of this section. This is a moving security zone when the escorted vessel is in transit and becomes a fixed zone when the escorted vessel is anchored or moored. A security zone will not extend beyond the boundary of the regulated area in this section.

(d) *Regulations*. (1) The general regulations for security zones contained in § 165.33 of this part applies to this section.

(2) A vessel may request the permission of the COTP Charleston or a designated representative to enter the security zone described in paragraph (c) of this section. If permitted to enter the security zone, a vessel must proceed at the minimum safe speed and must comply with the orders of the COTP or a designated representative. No vessel or person may enter the inner 50-yard portion of the security zone closest to the vessel.

(e) *Notice of security zone*. The COTP will inform the public of the existence or status of the security zones around escorted vessels in the regulated area by Broadcast Notice to Mariners. Coast Guard assets or other Federal, State or local law enforcement agency assets will be clearly identified by lights, vessel markings, or with agency insignia. When escorted vessels are moored, dayboards or other visual indications such as lights or buoys may be used.

(f) *Contact information*. The COTP Charleston may be reached via phone at (843) 724–7616. Any on scene Coast Guard or designated representative assets may be reached via VHF-FM channel 16.

[USCG–2007–0115, 73 FR 30562, May 28, 2008]

[FR Doc. 2010–2771 Filed 2–5–10; 8:45 am]

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## LIBRARY OF CONGRESS

### Copyright Royalty Board

#### 37 CFR Part 380

[Docket No. 2005–1 CRB DTRA]

#### Digital Performance Right in Sound Recordings and Ephemeral Recordings

**AGENCY:** Copyright Royalty Board, Library of Congress.

**ACTION:** Final rule.

**SUMMARY:** The Copyright Royalty Judges are publishing final regulations governing the statutory minimum fees to be paid by Commercial Webcasters under two statutory licenses, permitting certain digital performances of sound recordings and the making of ephemeral recordings, for the period beginning January 1, 2006, and ending on December 31, 2010.

**DATES:** *Effective Date:* March 10, 2010.

*Applicability Dates:* The regulations apply to the license period January 1, 2006, through December 31, 2010.

**FOR FURTHER INFORMATION CONTACT:** Richard Strasser, Senior Attorney, or Gina Giuffreda, Attorney Advisor, by telephone at (202) 707–7658 or by e-mail at [crb@loc.gov](mailto:crb@loc.gov).

**SUPPLEMENTARY INFORMATION:** On May 1, 2007, the Copyright Royalty Judges (“Judges”) published in the **Federal Register** their determination of royalty rates and terms under the statutory licenses under Section 112(e) and 114 of the Copyright Act, title 17 of the United States Code, for the period 2006 through 2010 for a digital public performance of sound recordings by means of eligible

nonsubscription transmission or a transmission by a new subscription service. 72 FR 24084. In *Intercollegiate Broadcast System, Inc. v. Copyright Royalty Board*, 574 F.3d 748 (D.C. Cir. 2009), the United States Court of Appeals for the District of Columbia Circuit (“D.C. Circuit”) affirmed the Judges’ determination in the main but remanded to the Judges the matter of setting the minimum fee to be paid by both Commercial Webcasters and Noncommercial Webcasters under Sections 112(e) and 114 of the Copyright Act. *Id.* at 762, 767. By order dated October 23, 2009, the Judges established a period commencing November 2, 2009, and concluding on December 2, 2009, for the parties to negotiate and submit a settlement of the minimum fee issue that was the subject of the remand.

On December 2, 2009, SoundExchange, Inc. and the Digital Media Association (“DiMA”) submitted a settlement regarding the statutory minimum fee to be paid by Commercial Webcasters. Subsequently, the Judges published for comment the proposed change in the rule necessary to implement that settlement pursuant to the order of remand from the D.C. Circuit. 74 FR 68214 (December 23, 2009). Comments were due to be filed by no later than January 22, 2010. The Judges received one comment from Intercollegiate Broadcasting System, Inc. (“IBS”).

IBS requests that the Judges publish a note to proposed § 380.3(b)(2) stating that the Judges on remand will determine the minimum fee for Noncommercial Webcasters. Comments of IBS at 2–3. The Judges decline to do so. As was made clear in the December 23, 2009, Notice, the proposed settlement applies only to Commercial Webcasters. Therefore, the Judges are adopting as final the proposed change as published on December 23, 2009. *See* 74 FR 68214.

#### List of Subjects in 37 CFR Part 380

Copyright, Sound recordings.

#### Final Regulations

■ For the reasons set forth in the preamble, the Copyright Royalty Judges are amending part 380 of title 37 of the Code of Federal Regulations as follows: