

licensing requirements.²¹ The Final Rule reflected the Commission's intention that the approved approach to applicability would resolve concerns that entities supplying services related to nuclear plant licensing requirements would balk at executing an interface agreement, if execution made them subject to NUC-001-1.²² Furthermore, given the appeal rights provided for in the NERC enforcement process, we do not believe that an entity that disagrees with its role in providing such services will be subject to enforcement without recourse. The Commission declines at the rulemaking phase to address issues concerning individual entities that may be approached to provide services relating to nuclear plant licensing requirements. Such issues are better addressed in a proceeding providing a record detailing the circumstances of a potential transmission entity's registration.

17. We also reject New York ISO's request for an allotted period of time to implement an interface agreement. Order No. 716 stated, "Given that the parties have already been able to agree to the services needed to meet NRC licensing requirements, the same parties should be able to successfully identify the services provided, confirm that they address NRC criteria for off-site power and system limits, and document such services in an auditable format consistent with the NUC-001-1 Requirements."²³ Thus, it should not be a problem for these parties to write up existing arrangements in the format required by the Nuclear Reliability Standard. In addition, in cases where there is no immediate risk to grid reliability, the Commission approved NERC's proposal that it may order mediation as a remedial measure.²⁴ For these reasons, we find that it is unnecessary to incorporate additional time for parties to negotiate and implement an interface agreement.²⁵

18. In addition, the Commission in Order No. 716 rejected calls for formal incorporation of dispute resolution procedures to resolve registration and contract negotiation disputes and, instead, left the use of such procedures to NERC's discretion as a mitigation

option in the event nuclear plant generator operators and transmission entities fail to agree.²⁶ Given our affirmation of the determination that no additional consent is necessary to become subject to the Nuclear Reliability Standard, we likewise affirm our determination that additional dispute resolution procedures to address a failure to consent are not necessary.

The Commission orders:

New York ISO's request for rehearing is hereby denied, as discussed in the body of this order.

By the Commission. Commissioner Kelliher is not participating.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

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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 WAYNE E. MEYER (DDG 108) 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 26, 2009 and is applicable beginning February 11, 2009.

FOR FURTHER INFORMATION CONTACT: Commander M. Robb Hyde, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (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 WAYNE E. MEYER (DDG 108) 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(f)(i), pertaining to the placement of the masthead light or lights above and clear of all other lights and obstructions; Annex I, paragraph 2(f)(ii), pertaining to the vertical placement of task lights; 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; and Annex I, paragraph 3(c), pertaining to placement of task lights not less than two meters from the fore and aft centerline of the ship in the athwartship direction. 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, amend 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 follow:

Authority: 33 U.S.C. 1605.

■ 2. Section 706.2 is amended as follows:

■ A. In Table Four, Paragraph 15 by adding, in numerical order, the

²¹ *Id.* P 82.

²² *Id.* P 69.

²³ *Id.* P 82.

²⁴ See discussion at *id.* P 75-80.

²⁵ The Commission declines to address in this order the proper resolution of a dispute concerning an entity, not currently responsible for providing services relating to a generator's nuclear plant licensing requirements, that is approached by a nuclear plant generator operator seeking to procure such services. Such issues are better resolved based on a case-by-case review of a complete factual record, detailing any reliability concerns.

²⁶ Order No. 716, 125 FERC ¶ 61,065 at P 75.

following entry for USS WAYNE E. MEYER (DDG 108):
 ■ B. In Table Four, Paragraph 16 by adding, in numerical order, the following entry for USS WAYNE E. MEYER (DDG 108):

■ C. In Table Five, by adding, in numerical order, the following entry for USS WAYNE E. MEYER (DDG 108):
§ 706.2 Certifications of the Secretary of the Navy under Executive Order 11964 and 33 U.S.C. 1605.

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

Vessel	Number	Horizontal distance from the fore and aft centerline of the vessel in the athwartship direction
USS WAYNE E. MEYER	DDG 108	1.84 meters.

16. * * *

Vessel	Number	Obstruction angle relative ship's headings
USS WAYNE E. MEYER	DDG 108	106.71 thru 112.50 [degrees].

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Table Five
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Vessel	Number	Masthead lights not over all other lights and obstructions. Annex I, sec. 2(f)	Forward mast-head light not in forward quarter of ship. Annex I, sec. 3(a)	After mast-head light less than 1/2 ship's length aft of forward mast-head light. Annex I, sec. 3(a)	Percentage horizontal separation attained
USS WAYNE E. MEYER	DDG 108	X	X	X	14.5

Approved: February 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 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 DEWEY (DDG 105) 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 26, 2009 and is applicable beginning February 11, 2009.
FOR FURTHER INFORMATION CONTACT: Commander M. Robb Hyde, JAGC, U.S. Navy, Deputy Assistant Judge Advocate

General (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 DEWEY (DDG 105) 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(f)(i),