commitments that are accounted for at fair value through earnings under generally accepted accounting principles.

Note: The text of SAB 109 will not appear in the Code of Federal Regulations.

Topic 5: Miscellaneous Accounting

* * * * *

DD. Written Loan Commitments Recorded at Fair Value Through Earnings

Facts: Bank A enters into a loan commitment with a customer to originate a mortgage loan at a specified rate. As part of this written loan commitment, Bank A expects to receive future net cash flows related to servicing rights from servicing fees (included in the loan's interest rate or otherwise), late charges, and other ancillary sources, or from selling the servicing rights to a third party. If Bank A intends to sell the mortgage loan after it is funded, pursuant to paragraph 6 of FASB Statement No. 133, *Accounting for Derivative Instruments and Hedging Activities*, as amended by FASB Statement No. 149, *Amendment of Statement 133 on Derivative Instruments and Hedging Activities* (''Statement 133''), the written loan commitment is accounted for as a derivative instrument and recorded at fair value through earnings (referred to hereafter as a ''derivative loan commitment''). If Bank A does not intend to sell the mortgage loan after it is funded, the written loan commitment is not accounted for as a derivative under Statement 133. However, paragraph 7(c) of FASB Statement No. 159, *The Fair Value Option for Financial Assets and Financial Liabilities* (''Statement 159''), permits Bank A to record the written loan commitment at fair value through earnings (referred to hereafter as a ''written loan commitment''). Pursuant to Statement 159, the fair value measurement for a written loan commitment would include the expected net future cash flows related to the associated servicing of the loan.

Question 1: In measuring the fair value of a derivative loan commitment accounted for under Statement 133, should Bank A include the expected net future cash flows related to the associated servicing of the loan?

Interpretive Response: Yes. The staff believes that, consistent with the recently issued guidance in FASB Statement No. 156, *Accounting for Servicing of Financial Assets* (''Statement 156''),[1] and Statement 159, the expected net future cash flows related to the associated servicing of the loan should be included in the fair value measurement of a derivative loan commitment. The expected net future cash flows related to the associated servicing of the loan that are included in the fair value measurement of a derivative loan commitment or a written loan commitment should be determined in the same manner that the fair value of a recognized servicing asset or liability is measured under FASB Statement No. 140, *Accounting for Transfers and Servicing of Financial Assets and Extinguishments of Liabilities*, as amended by Statement 156 (''Statement 140''). However, as discussed in paragraphs 61 and 62 of Statement 140, a separate and distinct servicing asset or liability is not recognized for accounting purposes until the servicing rights have been contractually separated from the underlying loan by sale or securitization of the loan with servicing retained.

The views in Question 1 apply to all loan commitments that are accounted for at fair value through earnings. However, for purposes of electing fair value accounting pursuant to Statement 159, the views in Question 1 are not intended to be applied by analogy to any other instrument that contains a nonfinancial element.

Question 2: In measuring the fair value of a derivative loan commitment accounted for under Statement 133 or a written loan commitment accounted for under Statement 159, should Bank A include the expected net future cash flows related to internally-developed intangible assets?

Interpretive Response: No. The staff does not believe that internally-developed intangible assets (such as customer relationship intangible assets) should be recorded as part of the fair value of a derivative loan commitment or a written loan commitment. Such nonfinancial elements of value should not be considered a component of the related instrument. Recognition of such assets would only be appropriate in a third-party transaction. For example, in the purchase of a portfolio of derivative loan commitments in a business combination, a customer relationship intangible asset is recorded separately from the fair value of such loan commitments. Similarly, when an entity purchases a credit card portfolio, EITF Issue No. 88–20, *Difference between Initial Investment and Principal Amount of Loans in a Purchased Credit Card Portfolio*, requires an allocation of the purchase price to a separately recorded cardholder relationship intangible asset.

The view in Question 2 applies to all loan commitments that are accounted for at fair value through earnings.

[1] Statement 156 permits an entity to subsequently measure recognized servicing assets and servicing liabilities (which are nonfinancial instruments) at fair value through earnings.

[FR Doc. E7–21927 Filed 11–8–07; 8:45 am]

BILLING CODE 8011–01–P

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 NORTH CAROLINA (SSN 777) 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 November 9, 2007 and is applicable to October 11, 2007.

FOR FURTHER INFORMATION CONTACT: Commander Gregg A. Cervi, 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 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 NORTH CAROLINA (SSN 777) 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 height placement of the masthead light above the hull; Annex I, paragraph 2(k), pertaining to the height and relative positions of the anchor lights; Annex I, paragraph 3(b), pertaining to the location of the sidelights; and Rule 21(c), pertaining to the location and arc of visibility of the sternlight. 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:

Authority: 33 U.S.C. 1605.

■ 2. Table One of § 706.2 is amended by adding, in numerical order, the following entry for USS NORTH CAROLINA:

§ 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 NORTH CAROLINA	SSN 777	2.90
* * * * *	*	*

■ 3. Table Three of § 706.2 is amended by adding, in numerical order, the following entry for USS NORTH CAROLINA:

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

* * * * *

TABLE THREE

Vessel	Number	Masthead lights arc of visibility; rule 21(a)	Side lights arc of visibility; rule 21(b)	Stern light arc of visibility; rule 21(c)	Side lights distance inboard of ship's sides in meters 3(b) annex 1	Stern light, distance forward of stern in meters; rule 21(c)	Forward anchor light, height above hull in meters; 2(K) annex 1	Anchor lights relationship of aft light to forward light in meters 2(K) annex 1
*	*		*	*	*		*	*
USS NORTH CAROLINA.	SSN 777	Meets Requirement.	Meets Requirement.	205.6°	4.37	11.05	2.8	0.30 below.
*	*		*	*	*		*	*

Approved: October 11, 2007.

Gregg A. Cervi,

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

[FR Doc. E7–22008 Filed 11–8–07; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD08–07–034]

Drawbridge Operation Regulations; Bonfouca Bayou, Slidell, LA

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations; request for comments.

SUMMARY: The Commander, Eighth Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the State Route 433 (S433) Bridge across Bonfouca Bayou, mile 7.0, at Slidell, St. Tammany Parish, Louisiana. This deviation will test a change to the drawbridge operation schedule to determine whether a permanent change to the schedule is needed.