

**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 FREEDOM (LCS 1) 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 May 2, 2008 and is applicable beginning March 10, 2008.

**FOR FURTHER INFORMATION CONTACT:** Commander 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 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 rule will revise various sections of 32 CFR part 706 previously amended by 72 FR 72946 on December 26, 2007.

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 FREEDOM (LCS 1) 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 masthead lights shall not be less than one-half of the length of the vessel; Annex I, paragraph 2(i)iii, pertaining to the three lights in the task light array being equally spaced. 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 Department 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 by removing paragraphs 22 and 23 following Table Five and adding a new paragraph 22 under Table Four, to read as follows:

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

\* \* \* \* \*

22. On the following ships the vertical separation of the task lights do not meet the vertical spacing requirements described by Annex I, 2(i)(iii).

TABLE FOUR

Vessel	No.	Vertical separation of the task light array is not equally spaced, the separation between the middle and lower task light exceed the separation between the upper and middle light by
USS FREEDOM	LCS 1	0.39 meter.

Approved: April 22, 2008.  
**M. Robb Hyde,**  
*Commander, JAGC, U.S. Navy, Deputy Assistant Judge Advocate, General (Admiralty and Maritime Law).*  
 [FR Doc. E8-9669 Filed 5-1-08; 8:45 am]  
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**ENVIRONMENTAL PROTECTION AGENCY**  
**40 CFR Parts 51, 52, 70, and 71**  
**[EPA-HQ-OAR-2006-0089; FRL-8560-9]**  
**RIN 2060-AN77**  
**Treatment of Certain Ethanol Production Facilities Under the "Major Emitting Facility" Definition; Notice of Action Denying Petition for Reconsideration and Denying Request for Stay**  
**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of Action Denying Petition for Reconsideration and Request for a Stay.  
**SUMMARY:** The EPA is providing notice that it has responded to a petition for reconsideration of the final rule published May 1, 2007, entitled "Prevention of Significant Deterioration, Nonattainment New Source Review and Title V: Treatment of Certain Ethanol Production Facilities Under the 'Major Emitting Facility' Definition." ("ethanol rule") The final ethanol rule changed the effect of the applicability provisions of two separate permitting programs

under the Clean Air Act (CAA): the major New Source Review (NSR) program and the Title V programs. The final rule changed the “major stationary source” and “major source” definitions by amending the definition of “chemical process plants” under the regulatory definition of “major emitting facility” to exclude ethanol manufacturing facilities that produce ethanol by natural fermentation processes. On July 2, 2007, EPA received a petition for reconsideration pursuant to 307(d)(7)(B) of the CAA from the Natural Resources Defense Council (“NRDC”). The NRDC petition also requested that EPA stay implementation of the final rule pending reconsideration of the rule.

The NRDC petition for reconsideration can be found in the rulemaking docket under Docket ID No. EPA-HQ-OAR-2006-0089. The EPA considered the petition and the information in the rulemaking docket in

reaching a decision on the petition. The EPA Administrator Stephen L. Johnson denied the petition for reconsideration and the request for a stay of the rule in a letter to the petitioner dated March 27, 2008. The letter documents EPA’s reasons for the denial and can be found in the rulemaking docket.

**FOR FURTHER INFORMATION CONTACT:** Ms. Joanna Swanson, Air Quality Policy Division, (C339-03), Environmental Protection Agency, Research Triangle Park, NC 27711, telephone number: (919) 541-5282; fax number: (919) 541-5509; e-mail address: [swanson.joanna@epa.gov](mailto:swanson.joanna@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. How Can I Obtain Copies of this Document and Other Related Information?**

This **Federal Register** notice, the petition for reconsideration, and the

letter denying the petition for reconsideration and the request for a stay of the rule during the reconsideration are available in the docket that EPA established for the “Prevention of Significant Deterioration, Nonattainment New Source Review, and Title V: Treatment of Certain Ethanol Production Facilities Under the ‘Major Emitting Facility’ Definition” rulemaking (Docket number EPA-HQ-OAR-2006-0089). The table below identifies the petitioner, the date EPA received the petition, the document identification number for the petition, the date of EPA’s response, and the document identification number for EPA’s response. Note that all the document numbers listed in the table are in the form of “EPA-HQ-OAR-2006-0089-xxxx.”)

Petitioner	Date of petition to EPA	Petition: Document No. in docket	Date of EPA response	EPA response: Document No. in docket
Natural Resources Defense Council .....	7/2/2007	-0153.1	3/27/2008	-0155

The docket for EPA’s denial of NRDC’s petition for reconsideration is Docket ID No. EPA-HQ-OAR-2006-0089. All documents in the docket are listed on the <http://www.regulations.gov> Web site. Although listed in the index, some information may not be publicly available, i.e., confidential business information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through <http://www.regulations.gov> or in hard copy at the EPA Docket Center, Docket ID No. EPA-HQ-OAR-2006-0089, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the EPA Docket Center is (202) 566-1742.

In addition to being available in the docket, an electronic copy of today’s notice of EPA’s decision denying NRDC’s petition for reconsideration and request for a stay of the rule pending reconsideration and of EPA’s response letter to NRDC outlining the reasons for

the denial will also be available on the World Wide Web. Following signature by the Principal Deputy Assistant Administrator, Office of Air and Radiation, a copy of this notice will be posted on EPA’s New Source Review Web site, under Regulations & Standards, at <http://www.epa.gov/nsr>.

Dated: April 24, 2008.

**Robert J. Meyers,**  
Principal Deputy Assistant Administrator,  
Office of Air and Radiation.  
[FR Doc. E8-9749 Filed 5-1-08; 8:45 am]

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[EPA-R03-OAR-2007-1146; FRL-8561-2]**

**Approval and Promulgation of Air Quality Implementation Plans; West Virginia: Transportation Conformity Requirement**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action to approve revisions to the West Virginia State Implementation Plan (SIP). The revisions establish State

transportation conformity requirements. EPA is approving these revisions in accordance with the requirements of the Clean Air Act.

**DATES:** This rule is effective on July 1, 2008 without further notice, unless EPA receives adverse written comment by June 2, 2008. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID Number EPA-R03-OAR-2007-1146 by one of the following methods:

A. <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

B. *E-mail:* [febbo.carol@epa.gov](mailto:febbo.carol@epa.gov).

C. *Mail:* EPA-R03-OAR-2007-1146, Carol Febbo, Chief, Energy, Radiation and Indoor Environment Branch, Mailcode 3AP23, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. *Hand Delivery:* At the listed EPA Region III address. Such deliveries are only accepted during the Docket’s normal hours of operation, and special arrangements should be made for deliveries of boxed information.

*Instructions:* Direct your comments to Docket ID No. EPA-R03-OAR-2007-