employment of, persons with special employment problems, including employment activities and programs under the Manpower Development and Training Act of 1962, Pub. L. No. 87–415, 76 Stat. 23 (1962), as amended, and the Economic Opportunity Act of 1964, Pub. L. No. 88–452, 78 Stat. 508 (1964), as amended, for persons among the long-term unemployed, handicapped, members of minority groups, older workers, or youth. * * *

* * * * *

■ 7. Add section 1625.32 to Subpart C of part 1625 to read as follows:

§ 1625.32 Coordination of retiree health benefits with Medicare and State health benefits.

(a) Definitions.

(1) *Employee benefit plan* means an employee benefit plan as defined in 29 U.S.C. 1002(3).

(2) *Medicare* means the health insurance program available pursuant to Title XVIII of the Social Security Act, 42 U.S.C. 1395 *et seq.*

(3) *Comparable State health benefit plan* means a State-sponsored health benefit plan that, like Medicare, provides retired participants who have attained a minimum age with health benefits, whether or not the type, amount or value of those benefits is equivalent to the type, amount or value of the health benefits provided under Medicare.

(b) *Exemption.* Some employee benefit plans provide health benefits for retired participants that are altered, reduced or eliminated when the participant is eligible for Medicare health benefits or for health benefits under a comparable State health benefit plan, whether or not the participant actually enrolls in the other benefit program. Pursuant to the authority contained in section 9 of the Act, and in accordance with the procedures provided therein and in § 1625.30(b) of this part, it is hereby found necessary and proper in the public interest to exempt from all prohibitions of the Act such coordination of retiree health benefits with Medicare or a comparable State health benefit plan.

(c) *Scope of Exemption.* This exemption shall be narrowly construed. No other aspects of ADEA coverage or employment benefits other than those specified in paragraph (b) of this section are affected by the exemption. Thus, for example, the exemption does not apply to the use of eligibility for Medicare or a comparable State health benefit plan in connection with any act, practice or benefit of employment not specified in paragraph (b) of this section. Nor does it apply to the use of the age of eligibility for Medicare or a comparable State health benefit plan in connection with any act, practice or benefit of employment not specified in paragraph (b) of this section.

8. In Subpart C of part 1625, add an Appendix to newly added § 1625.32 as follows:

Appendix to § 1625.32—Questions and Answers Regarding Coordination of Retiree Health Benefits With Medicare and State Health Benefits

Q1. Why is the Commission issuing an exemption from the Act?

A1. The Commission recognizes that while employers are under no legal obligation to offer retiree health benefits, some employers choose to do so in order to maintain a competitive advantage in the marketplace—using these and other benefits to attract and retain the best talent available to work for their organizations. Further, retiree health benefits clearly benefit workers, allowing such individuals to acquire affordable health insurance coverage at a time when private health insurance coverage might otherwise be cost prohibitive. The Commission believes that it is in the best interest of both employers and employees for the Commission to pursue a policy that permits employers to offer these benefits to the greatest extent possible.

Q2. Does the exemption mean that the Act no longer applies to retirees?

A2. No. Only the practice of coordinating retiree health benefits with Medicare (or a comparable State health benefit plan) as specified in paragraph (b) of this section is exempt from the Act. In all other contexts, the Act continues to apply to retirees to the same extent that it did prior to the issuance of this section.

Q3. May an employer offer a ''carve-out plan'' for retirees who are eligible for Medicare or a comparable State health plan?

A3. Yes. A ''carve-out plan'' reduces the benefits available under an employee benefit plan by the amount payable by Medicare or a comparable State health plan. Employers may continue to offer such ''carve-out plans''and make Medicare or a comparable State health plan the primary payer of health benefits for those retirees eligible for Medicare or the comparable State health plan.

Q4. Does the exemption also apply to dependent and/or spousal health benefits that are included as part of the health benefits provided for retired participants?

A4. Yes. Because dependent and/or spousal health benefits are benefits provided to the retired participant, the exemption applies to these benefits, just as it does to the health benefits for the retired participant. However, dependent and/or spousal benefits need not be identical to the health benefits provided for retired participants. Consequently, dependent and/or spousal benefits may be altered, reduced or eliminated pursuant to the exemption whether or not the health benefits provided for retired participants are similarly altered, reduced or eliminated.

Q5. Does the exemption address how the ADEA may apply to other acts, practices or employment benefits not specified in the rule?

A5. No. The exemption only applies to the practice of coordinating employer-sponsored retiree health benefits with eligibility for Medicare or a comparable State health benefit program. No other aspects of ADEA coverage or employment benefits other than retiree health benefits are affected by the exemption.

Q6. Does the exemption apply to existing, as well as to newly created, employee benefit plans?

A6. Yes. The exemption applies to all retiree health benefits that coordinate with Medicare (or a comparable State health benefit plan) as specified in paragraph (b) of this section, whether those benefits are provided for in an existing or newly created employee benefit plan.

Q7. Does the exemption apply to health benefits that are provided to current employees who are at or over the age of Medicare eligibility (or the age of eligibility for a comparable State health benefit plan)?

A7. No. The exemption applies only to retiree health benefits, not to health benefits that are provided to current employees. Thus, health benefits for current employees must be provided in a manner that comports with the requirements of the Act. Moreover, under the laws governing the Medicare program, an employer must offer to current employees who are at or over the age of Medicare eligibility the same health benefits, under the same conditions, that it offers to any current employee under the age of Medicare eligibility.

Dated: December 17, 2007.

For the Commission.

Naomi C. Earp,

Chair.

[FR Doc. E7–24867 Filed 12–21–07; 8:45 am]

BILLING CODE 6570–01–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 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 December 26, 2007 and is applicable beginning November 19, 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 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; Rule 27, paragraph (b) ii, pertaining to the three all-round lights in a vertical line where they can best be seen. 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 follows:

Authority: 33 U.S.C. 1605.

■ 2. Table One, of § 706.2 is amended by adding, in alpha numerical order by ship number, the following entry for USS FREEDOM:

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

* * * * *

Vessel	Number	Distance in meters of forward masthead light below minimum required height. Annex I, para 2(a)(i)
* * * * *	*	*
USS FREEDOM	LCS 1	5.99
* * * * *	*	*

■ 3. Table Five of § 706.2 is amended by adding, in alpha numerical order by ship number, the following entry for USS FREEDOM:

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

* * * * *

TABLE FIVE

Vessel	No.	Masterhead 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 ½ ship's length of forward masthead light. annex i, sec. 3(a)	Percentage horizontal separation attained
* * * *	*	*	*	*	*
USS FREEDOM	LCS 1	.....	X	X	23
* * * *	*	*	*	*	*

■ 4. Section 706.2 is amended by adding paragraphs 22 and 23 following Table Five 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).

Vessel	Number	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.

23. On the following ships the verticality of the task lights do not meet verticality requirements described in Rule 27(b)(ii).

Vessel	Number	Verticality of lights, when viewed from directly port or starboard, the lower task light is out of alignment with the upper and middle task light by:
USS FREEDOM	LCS 1	0.37 meter.

Approved: November 19, 2007.

C.J. Spain,

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

[FR Doc. E7–24934 Filed 12–21–07; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

34 CFR Parts 668, 674, 682, and 685

Federal Student Aid Programs (Student Assistance General Provisions, Federal Perkins Loan Program, Federal Direct Loan Program, Federal Family Education Loan Program)

AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Notice extending the waivers and modifications of statutory and regulatory provisions pursuant to the Higher Education Relief Opportunities for Students (HEROES) Act of 2003, Public Law 108–76.

SUMMARY: We are extending the actions taken by the Secretary pursuant to the HEROES Act of 2003, as announced in a notice published in the **Federal Register** on December 12, 2003 (68 FR 69312), and extended in a notice published in the **Federal Register** on October 20, 2005 (70 FR 61037).

DATES: Effective Date: December 26, 2007. Applicability Date: The actions announced in the December 12, 2003, **Federal Register** notice and extended in the October 20, 2005, **Federal Register** notice are applicable from September 30, 2007, until September 30, 2012.

FURTHER INFORMATION CONTACT: Wendy Macias, Office of Postsecondary Education, U.S. Department of Education, 1990 K Street, NW., room 8017, Washington, DC 20006–8544. Telephone: (202) 502–7526. E-mail: *Wendy.Macias@ed.gov.*

If you use a telecommunications device for the deaf (TDD), you can call the Federal Relay Service (FRS), toll free at 1–800–877–8339.

Individuals with disabilities can obtain this document in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) by contacting the contact person listed in this section.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** on December 12, 2003 (68 FR 69312), the Secretary exercised the authority granted to her by the HEROES Act of 2003 and announced the waivers and modifications of statutory or regulatory provisions that were appropriate to assist individuals who are applicants and recipients of student financial assistance under Title IV of the Higher Education Act of 1965, as amended (HEA), and who—

- Are serving on active military duty during a war or other military operation or national emergency;
- Are performing qualifying National Guard duty during a war or other military operation or national emergency;
- Reside or are employed in an area that is declared a disaster area by any Federal, State, or local official in connection with a national emergency; or
- Suffered direct economic hardship as a direct result of a war or other military operation or national emergency, as determined by the Secretary.

Under the terms of the HEROES Act of 2003, the Secretary's authority to provide the waivers and modifications would expire on September 30, 2005. On September 30, 2005, Pub. L. 109–78 extended the expiration date of the Secretary's authority to September 30, 2007. Accordingly, the Secretary extended the expiration of the waivers and modifications published on December 12, 2003, in a notice in the **Federal Register** published on October 20, 2005 (70 FR 61037).

On September 30, 2007, the President signed into law Public Law 110–93, which eliminated the September 30, 2007, expiration date of the HEROES Act of 2003, thereby making permanent the Secretary's authority to issue waivers and modifications of statutory and regulatory provisions under the HEROES Act of 2003. As a result, we are extending the waivers and modifications announced by the Secretary in the notice published in the **Federal Register** on December 12, 2003. The actions will remain in effect until September 30, 2012, unless the Secretary issues a notice in the **Federal Register** terminating or changing those actions before September 30, 2012.

The Secretary intends to review the waivers and modifications published on December 12, 2003, in light of recent statutory and regulatory changes. After completing that review, the Secretary will consider whether to change some or all of the published waivers and modifications. Any changes to these waivers and modifications will be published in a notice in the **Federal Register** as required by the HEROES Act of 2003.

Electronic Access to This Document

You can view this document, as well as other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the