

specifications at intermediate commingling points or at the market center if those points are downstream of the royalty measurement point approved by MMS or BLM, as applicable. Make this adjustment only if and to the extent that such adjustments were not already included in the location and quality differentials determined from your arm's-length exchange agreements.

(2) If the quality of your oil as adjusted is still different from the quality of the representative crude oil at the market center after making the quality adjustments described in paragraphs (a), (b) and (c)(1) of this section, you may make further gravity adjustments using posted price gravity tables. If quality bank adjustments do not incorporate or provide for adjustments for sulfur content, you may make sulfur adjustments, based on the quality of the representative crude oil at the market center, of 5.0 cents per one-tenth percent difference in sulfur content, unless MMS approves a higher adjustment.

(d) The examples in this paragraph illustrate how to apply the requirement of this section.

(1) *Example.* Assume that a Federal lessee produces crude oil from a lease near Artesia, New Mexico. Further, assume that the lessee transports the oil to Roswell, New Mexico, and then exchanges the oil to Midland, Texas. Assume the lessee refines the oil received in exchange at Midland. Assume that the NYMEX price is \$30.00/bbl, adjusted for the roll; that the WTI differential (Cushing to Midland) is  $-\$0.10$ /bbl; that the lessee's exchange agreement between Roswell and Midland results in a location and quality differential of  $-\$0.08$ /bbl; and that the lessee's actual cost of transporting the oil from Artesia to Roswell is  $\$0.40$ /bbl. In this example, the royalty value of the oil is  $\$30.00 - \$0.10 - \$0.08 - \$0.40 = \$29.42$ /bbl.

(2) *Example.* Assume the same facts as in the example in paragraph (1), except that the lessee transports and exchanges to Midland 40 percent of the production from the lease near Artesia, and transports the remaining 60 percent directly to its own refinery in Ohio. In this example, the 40 percent of the production would be valued at  $\$29.42$ /bbl, as explained in the previous example. In this example, the other 60 percent also would be valued at  $\$29.42$ /bbl.

(3) *Example.* Assume that a Federal lessee produces crude oil from a lease near Bakersfield, California. Further, assume that the lessee transports the oil to Hynes Station, and then exchanges

the oil to Cushing which it further exchanges with oil it refines. Assume that the ANS spot price is  $\$20.00$ /bbl, and that the lessee's actual cost of transporting the oil from Bakersfield to Hynes Station is  $\$0.28$ /bbl. The lessee must request approval from MMS for a location and quality adjustment between Hynes Station and Long Beach. For example, the lessee likely would propose using the tariff on Line 63 from Hynes Station to Long Beach as the adjustment between those points. Assume that adjustment to be  $\$0.72$ , including the sulfur and gravity bank adjustments, and that MMS approves the lessee's request. In this example, the preliminary (because the location and quality adjustment is subject to MMS review) royalty value of the oil is  $\$20.00 - \$0.72 - \$0.28 = \$19.00$ /bbl. The fact that oil was exchanged to Cushing does not change use of ANS spot prices for royalty valuation.

#### § 206.118 [Removed]

■ 9. Section 206.118 is removed.

■ 10. Paragraph (c) of § 206.119 is revised to read as follows:

#### § 206.119 How are royalty quantity and quality determined?

\* \* \* \* \*

(c) Any actual loss that you may incur before the royalty settlement metering or measurement point is not subject to royalty if BLM or MMS, as appropriate, determines that the loss is unavoidable.

\* \* \* \* \*

#### § 206.121 [Removed]

■ 11. Section 206.121 is removed.

[FR Doc. 04-10083 Filed 5-4-04; 8:45 am]

BILLING CODE 4310-MR-P

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Parts 62, 66, 67, and 72

[USCG-2001-10714]

RIN 1625-AA34

#### Update of Rules on Aids to Navigation Affecting Buoys, Sound Signals, International Rules at Sea, Communications Procedures, and Large Navigational Buoys

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

**SUMMARY:** The Coast Guard is revising its aids to navigation and maritime information regulations by updating

technical information concerning buoys, sound signals, international rules at sea, communications procedures, and large navigational buoys, and by rewriting some regulations to make them clearer and gender-neutral. These changes will update existing rules to reflect current practices and make them easier to understand.

**DATES:** This final rule is effective June 4, 2004.

**ADDRESSES:** Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG-2001-10714 and are available for inspection or copying at the Docket Management Facility, U.S. Department of Transportation, room PL-401, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at <http://dms.dot.gov>.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call Mr. Dan Andrusiak, Project Manager, Office of Short-Range Aids to Navigation (G-OPN), Coast Guard, telephone 202-267-0327 (e-mail: [dandrusiak@comdt.uscg.mil](mailto:dandrusiak@comdt.uscg.mil)). If you have questions on viewing the docket, call Andrea M. Jenkins, Program Manager, Docket Operations, telephone 202-366-0271.

#### SUPPLEMENTARY INFORMATION:

##### Regulatory History

On May 14, 2003, we published a notice of proposed rulemaking (NPRM) entitled "Update of Rules on Aids to Navigation Affecting Buoys, Sound Signals, International Rules at Sea, Communications Procedures, and Large Navigational Buoys" in the **Federal Register** (68 FR 25855). We also published a correction of a web address on May 22, 2003 (68 FR 28052). We are adopting that proposed rule as final with the exception of changes described in the *Discussion of Comments and Changes* and *Changes not related to comments* sections below.

We received two letters commenting on the proposed rule. No public hearing was requested and none was held.

##### Background and Purpose

The Coast Guard's Office of Short-Range Aids to Navigation frequently reviews the rules on Aids to Navigation. During our most recent review, we found that many rules do not reflect current technologies and practices. For example, what we formerly called "fog signals," we now call "sound signals." Also, we want to inform users that

certain safety information, such as "Notice to Mariners" can now be found on the World Wide Web. Therefore, we updated our aids to navigation rules and in the process attempted to eliminate ambiguous, confusing, or gender-specific language.

### Discussion of Comments and Changes

From 2 individual commenters we received 15 specific comments to this rule. These comments and our responses follow:

**Comment 1.** Given the number of security zones that have been recently established, and the number of additional security zones that are likely to be established, the Coast Guard should establish a "special mark" or "regulatory mark" with unique coloration and light characteristics for delimiting security zones.

**Response:** This is already covered under paragraph (a)(2) of § 62.33, Information and regulatory marks. It specifies that vertical diamond-shape marks featuring a centered cross be used to indicate that vessels are excluded from an area. The Coast Guard, however, will not mark security zones as a general practice.

**Comment 2.** The Coast Guard should establish additional means (telephone, facsimile, e-mail, etc.) for receiving reports of defects or discrepancies in navigational aids and § 62.65(c)(2) should be revised accordingly.

**Response:** In the preamble of our NPRM, we stated there were many ways to reach the Coast Guard. Indeed, this was our primary reason for removing a collect-call option from § 62.65(c)(2). (68 FR 25856, May 14, 2003). The text of our proposed rule, however, did not convey this message clearly. To make it clear that we invite people to report aids to navigation defects or discrepancies to us by radio, or other means—including telephone, e-mail, or facsimile, we have revised § 62.65(c)(2) and eliminated the use of the undefined "commercial communications facilities."

**Comment 3.** We understand that the Coast Guard will be proposing new rules to, among other things, mandate certain vessels be equipped with Automatic Identification Systems (AIS) as aids to navigation. It would appear appropriate to consider allowing certain offshore installations and shore facilities to be equipped to transmit AIS information (e.g., temporary, or newly established security zones). When the AIS regulations are proposed, the Coast Guard should consider the need to revise § 66.01–1(d) to allow such installations and facilities to apply for authorization to transmit AIS information.

**Response:** This suggestion is outside the scope of this rulemaking and therefore we did not change the rule based on this comment. In response to a notice and request for comments published July 1, 2003 (68 FR 39369), the commenter has sent the same comment to an AIS docket (see item number 2003–14878–50) where it will be considered.

**Comment 4.** The third sentence in § 66.10–15(b) should be revised by removing the word "a" in the phrase "looking upstream or toward the head of a navigation".

**Response:** We agree and have revised § 66.10–15(b) accordingly.

**Comment 5.** Further guidance should be provided in § 67.01–5(a) regarding the applicability of the "structures" requirements to mobile offshore drilling units (MODUs). The list of examples should be expanded to include "self-elevating MODUs elevated on location" and "floating MODUs when attached to the seabed by a marine drilling riser." While there is consistency in the application of the term "structure" to these units in the Gulf of Mexico, there has been historic inconsistency in other regions. It would be helpful if consistency could be achieved at this time, through rulemaking, while no such units are operating in areas of U.S. jurisdiction outside the Gulf of Mexico.

**Response:** We agree that the definition of "structures" should include a reference to MODUs and we have revised § 67.01–5(a) accordingly.

**Comment 6.** The Coast Guard should carefully differentiate between the actual "range" of sound signals and the "approved," "rated," or "nominal" range of such signals in its regulatory requirements. The actual range of such devices is dependent upon atmospheric conditions and cannot be assured. Regulations requiring sound signals should do so by referring to an approved, rated, or nominal range. Regulations where this change should be made include §§ 67.10–1(c), 67.10–5(a), 67.10–10(a)(3), 67.10–20, 67.10–25(a)(3), 67.20–10, 67.25–10, and 67.30–10.

**Response:** With the exception of § 67.10–20, Sound signal tests, we agree. In this final rule, we have changed "range" to "rated range" in §§ 67.10–1(c), 67.10–5(a), 67.10–10(a)(3), 67.10–25(a)(3), 67.20–10, 67.25–10, and 67.30–10. Section 67.10–20, however, dictates how the test will be conducted to verify that the signal performs at the rated range. Thus, we did not change the wording of § 67.10–20 based on this comment.

**Comment 7.** Section 67.10–5(b) should be revised to read: "Be located

on the structure so that the sound signal produced is audible over 360 degrees in a horizontal plane at all distances up to and including the required range."

**Response:** We did not make any changes in the rule based on this comment. Wording nearly identical to the proposed language already appears in § 67.10–5(a) and we see no need to change the wording in paragraph (b), which contains a height-requirement for the installation of the sound signal.

**Comment 8.** Section 67.10–20(a)(2) should be revised to allow the Coast Guard to accept the use of sound level meters other than the ones that it supplies by referencing an appropriate industry specification for a meter that meets or exceeds the standards of the meter used by the Coast Guard.

**Response:** We appreciate this suggested change in § 67.10–20, but it is beyond the scope of this rulemaking, which is limited to updating existing rules to reflect current practices and making these regulations gender-neutral and easier to understand. Therefore, we did not change the rule based on this comment.

**Comment 9.** Section 67.10–25(a)(1) should be revised to eliminate "his."

**Response:** We agree. In the final rule we have changed "his" in § 67.10–25(a)(1) to "Requestor's".

**Comment 10.** Revise § 67.10–25(b) to provide guidance regarding how "all expenses of the U.S. Government in sending a Coast Guard representative to the test" are to be calculated. Does this include pro-rated salaries, or only additional costs of travel, etc.?

**Response:** We have revised § 67.10–25(b) to indicate that only costs associated with travel and per diem, and not salary, are chargeable.

**Comment 11.** It appears that the reference to "Subpart 62.25" in § 67.15–10(a) should be revised to refer to §§ 62.23 to 62.33.

**Response:** We agree. We have changed it from "Subpart 62.25" to "Subpart B." (Subpart B includes §§ 62.23 to 62.33.)

**Comment 12.** With regard to §§ 67.20–5 and 67.25–5(a), the regulatory requirement that "lights shall be of sufficient candlepower as to be visible at a distance of at least five nautical miles 90 percent of the nights of the year" is inappropriate. This language should be replaced by a requirement that lights for a specified range meet specific minimum intensity requirements based upon a desired range. As the requirement is written, specialized studies of historic atmospheric conditions for each light would be required and would need to be continuously revalidated.

*Response:* Because atmospheric conditions vary by locality, the minimum candlepower needed to meet visibility requirements will also vary. Contact your local District Commander for local guidance. Local candlepower requirements are based upon transmissivity data issued by the National Oceanic and Atmospheric Administration (NOAA).

*Comment 13.* In § 67.20–5, the cross-reference to § 67.05–1(f) should be corrected because § 67.05–1(f) does not address a maximum height for lights.

*Response:* While not expressly stated in § 67.05–1(f), maximum height is inferred. The maximum height at which a light could be installed and remain visible up until the mariner is within 50 feet of a structure depends on the vertical divergence of the optic for the installed light. We have revised the last sentence of § 67.20–5 to reflect that vertical divergence will dictate the maximum height as opposed to giving an impression the reader will find a specific maximum height in § 67.05–1(f).

*Comment 14.* The “3” in § 67.25–10(a)(2)’s phrase “less than 3 provisions of paragraph (b) or (c) of this section” appears to be in error and should be corrected.

*Response:* This portion of § 67.25–10(a)(2) in the CFR is indeed in error. With the exception of changing “fog signal” to “sound signal,” paragraph (a)(2) should read the same as it did in the final rule published in the **Federal Register** July 8, 1972, (37 FR 13512, 13513): “Operate the fog signal when the visibility in any direction is less than 3 miles, unless the District Commander establishes a greater or lesser distance of visibility, not to exceed 5 miles, under the provisions of paragraph (b) or (c) of this section.” We have included this amendatory instruction in our final rule.

*Comment 15.* The Coast Guard should remove the term “nun buoy” from its regulations and internal policies and procedures because, the term is not only “gender-specific,” but also it has religious implications. These buoys are also commonly referred to as “conical buoys” and, in some regions, have historically been referred to as “nut buoys.”

*Response:* Though we do seek to eliminate references in our rules to one gender to the exclusion of the other, this change would create problems for the boating public. We use the term “nun” to refer to tapered, conical-shaped buoys because they appear, to some, to resemble a nun’s habit. This term has long been associated with such buoys both domestically and internationally.

Unlike changing “his” to “his or her” in a rule, this request would require changes to nautical charts—can (cylindrical) buoys are indicated on charts by the letter “c” and “nun” buoys by the letter “n”. Changing “nun” to “conical” would remove a means of identifying the aid as charted, and the term “nut buoy” is not commonly known.

#### Changes Not Related to Comments

In addition to revisions based on comments from the public, we made a few other changes. We changed our references to the National Imagery and Mapping Agency in notes to §§ 72.01–10 and 72.05–10 to reflect that agency’s new name: the National Geospatial-Intelligence Agency. We also updated the citations for parts 62, 66, 67, and 72.

#### Regulatory Evaluation

This rule is not a “significant regulatory action” under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not “significant” under the regulatory policies and procedures of the Department of Homeland Security.

We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary.

#### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. This rule will update technical information to reflect current practices and to rewrite some sections for clarity.

Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this final rule will not have a significant economic impact on a substantial number of small entities.

#### Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule so that they can better evaluate its effects on them and

participate in the rulemaking. If the rule affects your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please consult Dan Andrusiak, Project Manager, Office of Short-Range Aids to Navigation (OPN), Coast Guard, telephone 202–267–0327 (e-mail: [dandrusiak@comdt.uscg.mil](mailto:dandrusiak@comdt.uscg.mil)). Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency’s responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency’s responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

#### Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). You are not required to respond to a collection of information unless it displays a currently valid OMB control number.

#### Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them.

We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

### Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

### Taking of Private Property

This rule will not affect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

### Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

### Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

### Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

### Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a “significant energy action” under that order because it is not a “significant regulatory action” under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not

require a Statement of Energy Effects under Executive Order 13211.

### Environment

We have analyzed this rule under Commandant Instruction M16475.ID, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(a), of the Instruction, from further environmental documentation because it is editorial in nature—updating rules to reflect current practices, and to make them both gender-neutral and easier to understand. An “Environmental Analysis Check List” and a “Categorical Exclusion Determination” are available in the docket where indicated under ADDRESSES.

### List of Subjects

#### 33 CFR Part 62

Navigation (water).

#### 33 CFR Part 66

Intergovernmental relations, Navigation (water), Reporting and recordkeeping requirements.

#### 33 CFR Part 67

Continental shelf, Navigation (water), Reporting and recordkeeping requirements.

#### 33 CFR Part 72

Government publications, Navigation (water).

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR parts 62, 66, 67, and 72 as follows:

### PART 62—UNITED STATES AIDS TO NAVIGATION SYSTEM

- 1. The authority citation for part 62 continues to read as follows:

**Authority:** 14 U.S.C. 85; 33 U.S.C. 1222, 1233; 43 U.S.C. 1333; Department of Homeland Security Delegation No. 0170.1.

#### § 62.39 [Removed]

- 2. Remove § 62.39.

#### §§ 62.55–62.61 (Subpart C) [Removed and Reserved]

- 3. Remove and reserve subpart C, consisting of §§ 62.55 through 62.61.
- 4. In § 62.65, revise paragraph (c)(2) to read as follows:

### § 62.65 Procedures for reporting defects and discrepancies.

\* \* \* \* \*

(c) \* \* \*

(2) Telephone, e-mail, or facsimile messages may also be used to advise the nearest Coast Guard unit of defects or discrepancies in aids to navigation.

### PART 66—PRIVATE AIDS TO NAVIGATION

- 5. The authority citation for part 66 is revised to read as follows:

**Authority:** 14 U.S.C. 83, 84, 85; 43 U.S.C. 1333; Pub. L. 107–296, 116 Stat. 2135; Department of Homeland Security Delegation No. 0170.1.

#### § 66.01–5 [Amended]

- 6. In § 66.01–5(g), remove the word “fog,” and add in its place, the word “sound.”

#### § 66.05–10 [Amended]

- 7. In § 66.05–10—
  - a. In paragraph (c), wherever the word “his” appears, remove it; and
  - b. In paragraph (e), in the first sentence, add the words “or her” immediately after the word “his”, and add the word “or her” immediately after the words “by him.”
- 8. Revise § 66.05–25 to read as follows:

#### § 66.05–25 Change and modification of State aids to navigation.

Wherever a State Administrator determines the need for change in State aids to navigation, he or she must inform the District Commander of the nature and extent of the changes, as soon as possible, but not less than 30 days in advance of making the changes.

- 9. In § 66.05–30 revise paragraph (a) to read as set forth below.

#### § 66.05–30 Notice to Mariners.

(a) To improve public safety, the District Commander may publish information concerning State aids to navigation, including regulatory markers, in the Coast Guard Local Notices to Mariners.

\* \* \* \* \*

#### § 66.05–100 [Amended]

- 10. In § 66.05–100, in paragraph (e), remove the words “Each navigable water” and add, in their place, the words “Navigable waters.”

#### § 66.10–15 [Amended]

- 11. In § 66.10–15—
  - a. In paragraph (b), in the third sentence remove the word “a” before “navigation”.
  - b. In paragraphs (b) and (c), in the last sentence, remove the word “he” and add, in its place, the words “the user”,

■ c. In paragraphs (e)(1), (e)(2) and (e)(3), remove the word “he” and add, in its place, the words “the operator”.

#### **PART 67—AIDS TO NAVIGATION ON ARTIFICIAL ISLANDS AND FIXED STRUCTURES**

■ 12. The authority citation for part 67 is revised to read as follows:

**Authority:** 14 U.S.C. 85, 633; 43 U.S.C. 1333; Department of Homeland Security Delegation No. 0170.1.

#### **PART 67—[Amended]**

- 13. In part 67, remove the words “fog signal” and “fog signals” and add, in their place, respectively, the words “sound signal” and “sound signals” in the following places:
- a. Section 67.01–1 (a);
  - b. Section 67.01–5 (e) and (f), including the section heading for (f);
  - c. Subpart 67.10, subpart heading;
  - d. Sections 67.10–1 introductory text;
  - e. Section 67.10–5 introductory text;
  - f. Section 67.10–10 (a) introductory text, (a)(3) and (b);
  - g. Section 67.10–15, section heading, paragraphs (a) introductory text, (a)(1), (a)(2), and (b);
  - h. Section 67.10–20, section heading, paragraphs (a) introductory text, and (a)(3);
  - i. Section 67.10–25 introductory text and (a)(2);
  - j. Section 67.10–30;
  - k. Section 67.10–35(a) and (b);
  - l. Section 67.10–40, section heading and text;
  - m. Section 67.20–10, section heading, and paragraphs (a)(1), (a)(2) and (b);
  - n. Section 67.25–10, section heading, paragraphs (a)(1), (a)(2), (b) introductory text, (b)(2), and (c)(1);
  - o. Section 67.30–10, section heading, paragraphs (a) introductory text, (b), (c), (d) introductory text and (d)(2);
  - p. Section 67.35–1 (b);
  - q. Section 67.35–5 (b);
  - r. Section 67.40–1 (a);
  - s. Section 67.40–5 (b);
  - t. Section 67.40–20; and
  - u. Section 67.50–25 (f).

#### **PART 67—[Amended]**

- 14. In part 67, immediately before the word “range”, add the word “rated” in the following places:
- a. Section 67.10–1(c).
  - b. Section 67.10–5(a).
  - c. Section 67.10–10(a)(3).
  - d. Section 67.10–25(a)(3).
  - e. Section 67.20–10(a)(1).
  - f. Section 67.25–10(a)(1), (a)(1)(i), (b).
  - g. Section 67.30–10(b).

#### **§ 67.01–5 [Amended]**

- 15. Amend § 67.01–5(a) by adding the words “Mobile Offshore Drilling Units

(MODUs) when attached to the bottom,” immediately after the words “all drilling platforms,”.

- 16. Revise § 67.01–10 to read as follows:

#### **§ 67.01–10 Delegation of functions.**

The Coast Guard District Commander may delegate the authority for performing inspections, enforcement, and administration of regulations to any civilian or military position in the Coast Guard.

- 17. Revise § 67.01–15 to read as follows:

#### **§ 67.01–15 Classification of structures.**

(a) *When will structures be assigned to a Class?* The District Commander will assign structures to Class A, B, or C as part of processing an application for a permit to establish and operate lights and sound signals.

(b) *In general, where will the different classes of structures be located?* Specific criteria in paragraph (c) of this section may create exceptions, but, in general, structures the farthest from shore are likely to be assigned to Class A and required to have obstruction lights and sound signals that can be detected from the farthest distance. Structures closest to shore are likely to be assigned to Class C and, while subject to requirements to ensure that they are also detectable from a safe distance away, will be required to have the least powerful obstruction lights or sound signals. The location and standards for Class B structures will generally be in between Class A and C structures.

(c) *What criteria will be used to classify structures?* When assigning a structure to a class, the District Commander will take into consideration whether a line of demarcation has been prescribed, and matters concerning, but not necessarily limited to, the dimensions of the structure and the depth of water in which it is located, the proximity of the structure to vessel routes, the nature and amount of vessel traffic, and the effect of background lighting.

(1) If a line of demarcation has been prescribed, the District Commander will assign those structures seaward of the line of demarcation to Class A. He or she will assign all structures shoreward of the line of demarcation to either Class B or Class C, unless the District Commander determines under § 67.05–25 that the structure should be assigned to Class A because of the structure’s proximity to a navigable channel, fairway or line of demarcation.

(2) If a line of demarcation has not been prescribed, the District Commander will assign a structure to

Class A, B, or C as he or she deems appropriate.

- 18. Revise § 67.01–20 to read as follows:

#### **§ 67.01–20 Prescribing lines of demarcation.**

The District Commander sends recommendations for establishing or changing lines of demarcation to the Commandant. For the purposes of this part, when the Commandant approves of additions to or changes in prescribed lines of demarcation, such additions or changes will be published in the **Federal Register** and will become effective on the date specified in that publication.

#### **§ 67.05–1 [Amended]**

- 19. In § 67.05–1(f), immediately after the words, “the angle of the approach, until “, remove the word “he”, and add, in its place, the words, “the mariner.”

#### **§ 67.10–10 [Amended]**

- 20. In addition to amendments set forth in the nomenclature instruction above, in § 67.10–10, in paragraph (a)(3), remove the third word (“fog”).

#### **§ 67.10–25 [Amended]**

- 21. In § 67.10–25—
- a. Amend paragraph (a)(1), by removing “His” and adding, in its place, “Requestor’s”.
  - b. Amend (b) by adding the words “travel and per diem” after the words “including all”.
- 22. Revise § 67.15–1 to read as follows:

#### **§ 67.15–1 Lights and signals on attendant vessels.**

The requirements prescribed by this part apply to structures. The barges, vessels, and other miscellaneous floating plants in attendance must display lights and signals under the International Navigational Rules Act of 1977 (33 U.S.C. 1601–1608) that adopted the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), or the Inland Navigational Rules Act of 1980 (33 U.S.C. 2001–2038). When vessels are fixed to or submerged onto the seabed, however, they become structures as described in § 67.01–5.

- 23. Revise § 67.15–10 to read as follows:

#### **§ 67.15–10 Spoil banks, artificial islands, and dredged channels.**

(a) All submerged spoil banks, or artificial islands resulting from the dredging of private channels, laying of pipelines, or any other private operation, and all privately dredged channels which, in the judgment of the

District Commander are required to be marked by aids to navigation, shall be marked by private aids to navigation conforming to the standard United States system of aids to navigation characteristics described in subpart B of part 62 of this subchapter.

(b) To receive a permit to establish and maintain a private aid to navigation for the purposes described in paragraph (a) of this section, submit your application to the District Commander. The District Commander will review all applications and issue all permits.

#### **§ 67.20–5 [Amended]**

■ 24. In § 67.20–5, remove the words “specified in § 67.05–1(f)”, and add, in their place, the words “governed by the requirement in § 67.05–1(f) that mariners be able to see at least one of the lights, regardless of the angle of approach, until within 50 feet of the structure, visibility permitting”.

#### **§ 67.20–10 [Amended]**

■ 25. In § 67.20–10, in paragraph (b), add the words “or she” immediately after the words “of this section if he”.

#### **§ 67.25–10 [Amended]**

■ 26. In § 67.25–10—

■ a. Amend paragraph (a)(2), by removing the words “in any direction is less than 3”, and adding, in their place, the words “, not to exceed 5 miles, under the”.

■ b. In the introductory text of paragraph (c), add the words “or she” immediately after the words “of this section, if he”.

#### **§ 67.30–5 [Amended]**

■ 27. In § 67.30–5, in paragraph (a), remove the address “Naval Supply Depot, 5801 Tabor Avenue, Philadelphia, Pa. 19120” and add, in its place, the following address: “Document Automation and Production Service, 700 Robbins Avenue, Building 4, Section D, Philadelphia, PA 19111–5091”.

#### **§ 67.40–1 [Amended]**

■ 28. In § 67.40–1(a), remove the second sentence, and add, in its place, the two following sentences: “Persons constructing structures must notify the District Commander by either telegram or overnight mail on the day they begin construction. Within this notice, they must inform him or her of the lights and sound signals they will use during construction.”

#### **§ 67.40–5 [Amended]**

■ 29. In § 67.40–5—

■ a. In paragraph (a), add the words “or her” immediately after the words “whenever, in his”, and

■ b. In paragraph (b), add the words “or she” immediately after the words “marine navigation, he” and add the words “or her” immediately after the words “revoke or revise his”.

#### **§§ 67.50–5, 67.50–15, 67.50–20, 67.50–30, 67.50–35, 67.50–45, and 67.50–50 [Amended]**

■ 30. In §§ 67.50–5(b), 67.50–15(b), 67.50–20(b), 67.50–30(b), 67.50–35(b), 67.50–45(b), and 67.50–50(b), remove the sentences: “The District Commander shall assign structures to classes as he deems appropriate at the time of application for a permit to establish and operate lights and fog signals. In so doing, he shall take into consideration matters concerning, but not necessarily limited to, the dimensions of the structure and the depth of water in which it is located; the proximity of the structure to vessel routes; the nature and amount of vessel traffic; and the effect of background lighting.”

### **PART 72—MARINE INFORMATION**

■ 31. The authority citation for part 72 is revised to read as follows:

**Authority:** 14 U.S.C. 85, 633; 43 U.S.C. 1333; Department of Homeland Security Delegation No. 0170.1.

■ 32. In § 72.01–5, add a note at the end of the section that reads as follows:

#### **§ 72.01–5 Local Notice to Mariners.**

\* \* \* \* \*

**Note to § 72.01–5:** You may also access Local Notice to Mariners free of charge on the Internet from the Coast Guard Navigation Center’s Web site (<http://www.navcen.uscg.gov/>); look for “Local Notice to Mariners”.

■ 33. In § 72.01–10, add a note at the end of the section that reads as follows:

#### **§ 72.01–10 Notice to Mariners.**

\* \* \* \* \*

**Note to § 72.01–10:** You may also access Notice to Mariners through the National Geospatial-Intelligence Agency’s Web site (<http://pollux.nss.nima.mil/>); look for “U.S. Notice to Mariners”.

■ 34. In § 72.05–10, add a note at the end of the section that reads as follows:

#### **§ 72.05–10 Free distribution.**

\* \* \* \* \*

**Note to § 72.05–10:** You may also access Coast Guard Light List data through the following National Geospatial-Intelligence Agency’s Web site: ([http://pollux.nss.nima.mil/pubs/USCGLL/pubs\\_j\\_uscgl\\_list.html](http://pollux.nss.nima.mil/pubs/USCGLL/pubs_j_uscgl_list.html)).

Dated: February 25, 2004.

**Jeffrey J. Hathaway,**

*Rear Admiral, U.S. Coast Guard, Acting Assistant Commandant for Operations.*

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### **ENVIRONMENTAL PROTECTION AGENCY**

#### **40 CFR Part 180**

[OPP–2003–0281; FRL–7356–2]

#### **Rhamnolipid Biosurfactant; Exemption from the Requirement of a Tolerance; Technical Correction**

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

**ACTION:** Final rule; technical correction.

**SUMMARY:** EPA issued a final rule in the **Federal Register** of March 31, 2004, concerning the establishment of an exemption from the requirement of a tolerance for residues of the biochemical, rhamnolipid biosurfactant, on all food commodities when applied/used as a fungicide. This document is being issued to correct a chemical name error.

**DATES:** This document is effective on May 5, 2004.

**ADDRESSES:** EPA has established a docket for this action under docket ID number OPP–2003–0281. All documents in the docket are listed in the EDOCKET index at <http://www.epa.gov/edocket/>. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information (CBI) 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 in EDOCKET or in hard copy at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305–5805.

**FOR FURTHER INFORMATION CONTACT:** Denise Greenway, Biopesticides and Pollution Prevention Division (7511C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–8263; e-mail address: [greenway.denise@epa.gov](mailto:greenway.denise@epa.gov).