

**§ 72.710 [Amended]**

42. In § 72.710, the address for the Office of Standards, Regulations and Variances is revised to read “1100 Wilson Blvd., Room 2352, Arlington, Virginia 22209–3939.”

**PART 75—MANDATORY SAFETY STANDARDS—UNDERGROUND COAL MINES**

43. The authority citation for Part 75 continues to read as follows:

**Authority:** 30 U.S.C. 811.

**§ 75.301 [Amended]**

44. In § 75.301, in the definitions of *noncombustible structure or area* and *noncombustible material*, the address for the Office of Standards, Regulations and Variances is revised to read “1100 Wilson Blvd., Room 2352, Arlington, Virginia 22209–3939.”

**§ 75.322 [Amended]**

45. In § 75.322, the address for MSHA is revised to read “1100 Wilson Blvd., Room 2424, Arlington, Virginia 22209–3939.”

**§ 75.333 [Amended]**

46. In § 75.333(d)(1), the address for the Office of Standards, Regulations and Variances is revised to read “1100 Wilson Blvd., Room 2352, Arlington, Virginia 22209–3939.”

47. In § 75.333(e)(1)(i), the address for the Office of Standards, Regulations and Variances is revised to read “1100 Wilson Blvd., Room 2352, Arlington, Virginia 22209–3939.”

48. In § 75.333(e)(3), the address for the Office of Standards, Regulations and Variances is revised to read “1100 Wilson Blvd., Room 2352, Arlington, Virginia 22209–3939.”

49. In § 75.333(f), the address for the Office of Standards, Regulations and Variances is revised to read “1100 Wilson Blvd., Room 2352, Arlington, Virginia 22209–3939.”

**§ 75.335 [Amended]**

50. In § 75.335(a)(1)(iv), the address for the Office of Standards, Regulations and Variances is revised to read “1100 Wilson Blvd., Room 2352, Arlington, Virginia 22209–3939.”

51. In § 75.335(a)(2), the address for the Office of Standards, Regulations and Variances is revised to read “1100 Wilson Blvd., Room 2352, Arlington, Virginia 22209–3939.”

**§ 75.523 [Amended]**

52. In § 75.523–1(c), the address for the Office of Technical Support is

revised to read “1100 Wilson Blvd., Room 2329, Arlington, Virginia 22209–3939.”

**§ 75.818 [Amended]**

53. In § 75.818(b)(4), the address for the Office of Standards, Regulations and Variances is revised to read “1100 Wilson Blvd., Room 2352, Arlington, Virginia 22209–3939.”

**§ 75.1710–1 [Amended]**

54. In § 75.1710–1(f), the address for the Office of Technical Support is revised to read “1100 Wilson Blvd., Room 2329, Arlington, Virginia 22209–3939.”

**§ 75.1712–6 [Amended]**

55. In § 75.1712–6(c), the address for the Health Division of MSHA Coal Mine Safety and Health is revised to read “1100 Wilson Blvd., Room 2416, Arlington, Virginia 22209–3939.”

**§ 75.1900 [Amended]**

56. In § 75.1900, in the definition of *Noncombustible Material*, the address for the Office of Standards, Regulations and Variances is revised to read “1100 Wilson Blvd., Room 2352, Arlington, Virginia 22209–3939.”

**PART 90—MANDATORY HEALTH STANDARDS—COAL MINERS WHO HAVE EVIDENCE OF PNEUMOCONIOSIS**

57. The authority citation for Part 90 continues to read as follows:

**Authority:** 30 U.S.C. 811 and 813(h).

**§ 90.3 [Amended]**

58. In § 90.3(d), the address for the Health Division of MSHA Coal Mine Safety and Health is revised to read “1100 Wilson Blvd., Room 2416, Arlington, Virginia 22209–3939.”

59. In § 90.3(e), the address for the Health Division of MSHA Coal Mine Safety and Health is revised to read “1100 Wilson Blvd., Room 2416, Arlington, Virginia 22209–3939.”

**§ 90.204 [Amended]**

60. In § 90.204(e), the address for MSHA Coal Mine Safety and Health is revised to read “1100 Wilson Blvd., Room 2424, Arlington, Virginia 22209–3939.”

Signed at Arlington, VA, this 28th day of May 2002.

**John R. Caylor,**

*Deputy Assistant Secretary of Labor for Mine Safety and Health.*

[FR Doc. 02–13906 Filed 6–3–02; 8:45 am]

**BILLING CODE 4310–43–P**

**DEPARTMENT OF TRANSPORTATION****Coast Guard****33 CFR Part 1**

**[USCG–2001–9175]**

**RIN 2115–AG15**

**Revised Options for Responding to Notices of Violations**

**AGENCY:** Coast Guard, DOT.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard amends the procedure for a Notice of Violation when the recipient fails to either accept or decline it within 45 days. Instead of automatically converting the “fail to respond” Notice of Violation to a marine violation case with its lengthier processing and potentially higher penalties, it is treated as a default and we proceed with the civil penalty. The party retains its option to choose marine violation processing at any time during the 45-day response period.

**DATES:** This final rule is effective July 5, 2002.

**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–2001–9175 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 LCDR Scott Budka, Project Manager, Office of Investigations & Analysis (G–MOA), Coast Guard, telephone 202–267–2026. If you have questions on viewing the docket, call Dorothy Beard, Chief, Dockets, Department of Transportation, telephone 202–366–5149.

**SUPPLEMENTARY INFORMATION:****Regulatory History**

On December 10, 2001, we published a notice of proposed rulemaking (NPRM) entitled “Revised Options for Responding to Notices of Violations” in the *Federal Register* (66 FR 63640). We received 4 letters commenting on the proposed rule. No public hearing was requested and none was held.

**Background**

We explained the background of Notices of Violations (NOVs) and our

recent review of their use in the NPRM. Today, we use NOV's only in small oil discharge (under 100 gallons) and minor violations of our pollution prevention regulations; we have not expanded their use since their introduction in 1994. The changes this rule makes to the NOV process allow it to be more easily administered through our Marine Information for Safety and Law Enforcement system, which came on line in late 2001, and will support expanding the use of NOV's to other programs.

#### Discussion of Comments and Changes

A total of 4 letters were sent to the docket, with one being a clarification of an earlier letter. One commenter stated a party's failure to respond to an NOV within 45 days of its issuance might result from misdelivery of the NOV. If a party claims it failed to receive the original NOV, the Coast Guard's procedures allow us to review the case.

Another commenter suggested changes that are beyond the scope of this rulemaking. Since the changes suggested concern internal Coast Guard processes, we have delivered them to the appropriate offices to review and consider them.

The third commenter expressed support for this rulemaking.

#### 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 (OMB) has not reviewed it under that Order. It is not "significant" under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979). We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

As we discussed in the NPRM, this rule only changes the default when a party fails to respond to an NOV within 45 days; currently, only about 1% of all NOV recipients. These parties can avoid the impact of this rule entirely, by making the required NOV response within 45 days.

#### 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.

As previously noted, this rule only changes the default when a party fails to respond to an NOV within 45 days. These parties can avoid any impact of this rule, simply by making the required NOV response (to accept or decline the NOV) within 45 days. Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this 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 (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 entities may call the Project Manager listed under **FOR FURTHER INFORMATION CONTACT**.

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).

#### 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 effect 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. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

#### Environment

We have considered the environmental impact of this rule and concluded that under figure 2–1,

paragraph (34)(a), of Commandant Instruction M16475.ID, this rule is categorically excluded from further environmental documentation. The changes here are procedural and affect only the default treatment of "fail to respond" NOVs. A "Categorical Exclusion Determination" is available in the docket where indicated under **ADDRESSES**.

#### List of Subjects in 33 CFR Part 1

Administrative practice and procedure, Authority delegations (Government agencies), Freedom of information, Penalties.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 1 as follows:

### PART 1—GENERAL PROVISIONS

#### Subpart 1.07—Enforcement; Civil and Criminal Penalty Proceedings

1. The authority citation for subpart 1.07 continues to read as follows:

**Authority:** 14 U.S.C. 633; Sec. 6079(d), Pub. L. 100–690, 102 Stat. 4181; 49 CFR 1.46.

2. In § 1.07–11, a new paragraph (b)(7) is added, paragraph (d) is revised, and paragraphs (e) and (f) are added, as follows:

#### § 1.07–11 Notice of Violation.

\* \* \* \* \*

(b) \* \* \*

(7) A statement that failure to either pay the proposed penalty on the Notice of Violation or decline the Notice of Violation and request a hearing within 45 days will result in a finding of default and the Coast Guard will proceed with the civil penalty in the amount recommended on the Notice of Violation without processing the violation under the procedures described in 33 CFR 1.07–10(b).

\* \* \* \* \*

(d) If a party declines the Notice of Violation within 45 days, the case file will be sent to the District Commander for processing under the procedures described in 33 CFR 1.07–10(b).

(e) If a party pays the proposed penalty on the Notice of Violation within 45 days, a finding of proved will be entered into the case file.

(f) If within 45 days of receipt a party—

(1) Fails to pay the proposed penalty on the Notice of Violation; and

(2) Fails to decline the Notice of Violation—the Coast Guard will enter a finding of default in the case file and proceed with the civil penalty in the amount recommended on the Notice of Violation without processing the

violation under the procedures described in 33 CFR 1.07–10(b).

Dated: May 23, 2002.

**Jeffrey P. High,**

*Acting Assistant Commandant for Marine Safety, Security and Environmental Protection.*

[FR Doc. 02–13963 Filed 6–3–02; 8:45 am]

**BILLING CODE 4910–15–P**

### DEPARTMENT OF TRANSPORTATION

#### Coast Guard

#### 33 CFR Part 117

[CGD08–02–013]

#### Drawbridge Operating Regulation; Bonfouca Bayou, LA

**AGENCY:** Coast Guard, DOT.

**ACTION:** Notice of temporary deviation from regulations.

**SUMMARY:** The Commander, Eighth Coast Guard District has issued a temporary deviation from the regulation in 33 CFR 117.433 governing the operation of the State Route 433 swing span drawbridge across Bonfouca Bayou, mile 7.0, at Slidell, St. Tammany Parish, Louisiana. This deviation allows the draw of the State Route 433 swing span drawbridge to remain closed to navigation from 8 a.m. until noon on June 12, 2002. This temporary deviation will allow for installation of new electrical parts for continued operation of the draw span of the bridge.

**DATES:** This deviation is effective from 8 a.m. until noon on Wednesday, June 12, 2002.

**ADDRESSES:** Unless otherwise indicated, documents referred to in this notice are available for inspection or copying at the office of the Eighth Coast Guard District, Bridge Administration Branch, Commander (obc), 501 Magazine Street, New Orleans, Louisiana, 70130–3396. The Bridge Administration Branch maintains the public docket for this temporary deviation.

**FOR FURTHER INFORMATION CONTACT:** Mr. David Frank, Bridge Administration Branch, at the address given above or telephone (504) 589–2965.

**SUPPLEMENTARY INFORMATION:** The SR 433 swing span drawbridge across Bonfouca Bayou, mile 7.0, at Slidell, St. Tammany Parish, Louisiana, has a vertical clearance in the closed-to-navigation position of 3.5 feet above mean high water and 6.7 feet above mean low water at the pivot pier. The vertical clearance at the rest pier is 8.2 feet above mean high water and 11.4 feet above mean low water in the

closed-to-navigation position. The bridge provides unlimited vertical clearance in the open-to-navigation position. Navigation on the waterway consists of tugs with tows, fishing vessels, sailing vessels, and other recreational craft.

Presently, the draw operates as follows: The draw need not open for passage of vessels from 7 a.m. to 8 a.m. and from 1:45 p.m. to 2:45 p.m., Monday through Friday except Federal Holidays. The draw need open only on the hour and half-hour from 6 a.m. to 7 a.m. and from 3 p.m. to 6 p.m., Monday through Friday except federal holidays. The draw shall open on signal from 9 p.m. to 5 a.m., if at least 4 hours notice is given to the Louisiana Department of Transportation and Development Security Service at (540) 375–0100. At all other times the draw shall open on signal.

The Louisiana Department of Transportation and Development requested a temporary deviation for the operation of the drawbridge to accommodate maintenance work. The work involves installation of new electrical parts. This work is essential for continued operation of the draw span of the bridge.

This deviation allows the draw of the State Route 433 swing span drawbridge to remain closed to navigation from 8 a.m. until noon on Wednesday, June 12, 2002.

Dated: May 24, 2002.

**D.F. Ryan,**

*Captain, U.S.C.G., Commander, Eighth Coast Guard District, Acting.*

[FR Doc. 02–13961 Filed 6–3–02; 8:45 am]

**BILLING CODE 4910–15–U**

### DEPARTMENT OF TRANSPORTATION

#### Coast Guard

#### 33 CFR Part 117

[CGD08–02–014]

#### Drawbridge Operating Regulation; Three Mile Creek, AL

**AGENCY:** Coast Guard, DOT.

**ACTION:** Notice of temporary deviation from regulations.

**SUMMARY:** The Commander, Eighth Coast Guard District has issued a temporary deviation from the regulation in 33 CFR 117 governing the operation of the CSX Transportation railroad swing span drawbridge across Three Mile Creek, mile 0.3, at Mobile, Alabama. This deviation allows the draw of the railroad swing span bridge to remain closed to navigation from 8