

**FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION****29 CFR Part 2700****Procedural Rules; Correction**

**AGENCY:** Federal Mine Safety and Health Review Commission.

**ACTION:** Correcting amendments.

**SUMMARY:** This document contains a correction to the final regulations which were published in the *Federal Register* of Wednesday, September 8, 1999 (64 FR 48707). Those regulations amended the procedural rules of the Federal Mine Safety and Health Review Commission.

**DATES:** Effective April 16, 2002.

**FOR FURTHER INFORMATION CONTACT:**

Thomas A. Stock, Acting General Counsel, Office of the General Counsel, Federal Mine Safety and Health Review Commission, 1730 K Street, NW, 6th Floor, Washington, DC 20006, telephone 202-653-5610 (202-566-2673 for TDD Relay). These are not toll-free numbers.

**SUPPLEMENTARY INFORMATION:****Background**

On September 8, 1999 (64 FR 48707), the Federal Mine Safety and Health Review Commission published in the *Federal Register* as final rules various amendments to its procedural rules. With respect to § 2700.76, the Commission's procedural rule relating to interlocutory review, the Commission intended to revise only the introductory text of paragraph (a), and to leave unchanged paragraphs (a)(1) and (a)(2), as well as paragraphs (b) through (d). As published, paragraphs (a)(1) and (a)(2) were inadvertently omitted from § 2700.76.

**Need for Correction**

As published, § 2700.76(a) does not contain paragraphs (a)(1) and (a)(2), which were intended to be included in the rule. This document corrects that omission and restores those paragraphs which were inadvertently omitted.

**List of Subjects in 29 CFR Part 2700**

Administrative practice and procedure, Ex parte communications, Lawyers, Penalties.

Accordingly, 29 CFR part 2700 is corrected by making the following correcting amendment:

**PART 2700—PROCEDURAL RULES**

1. The authority citation for part 2700 continues to read as follows:

**Authority:** 30 U.S.C. 815, 820 and 823.

2. Revise paragraph (a) of § 2700.76 to read as follows:

**§ 2700.76 Interlocutory review.**

(a) *Procedure.* Interlocutory review by the Commission shall not be a matter of right but of the sound discretion of the Commission. Procedures governing petitions for review of temporary reinstatement orders are found at § 2700.45(f).

(1) Review cannot be granted unless:

(i) The judge has certified, upon his own motion or the motion of a party, that his interlocutory ruling involves a controlling question of law and that in his opinion immediate review will materially advance the final disposition of the proceeding; or

(ii) The Judge has denied a party's motion for certification of the interlocutory ruling to the Commission, and the party files with the Commission a petition for interlocutory review within 30 days of the Judge's denial of such motion for certification.

(2) In the case of either paragraph (a)(1)(i) or (ii) of this section, the Commission, by a majority vote of the full Commission or a majority vote of a duly constituted panel of the Commission, may grant interlocutory review upon a determination that the Judge's interlocutory ruling involves a controlling question of law and that immediate review may materially advance the final disposition of the proceeding. Interlocutory review by the Commission shall not operate to suspend the hearing unless otherwise ordered by the Commission. Any grant or denial of interlocutory review shall be by written order of the Commission.

\* \* \* \* \*

Dated: April 9, 2002.

**Theodore F. Verheggen,**

*Chairman, Federal Mine Safety and Health Review Commission.*

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**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 of the Navy (Admiralty and Maritime Law) has determined that USS MCCAMPBELL (DDG 85) 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.

**EFFECTIVE DATE:** November 20, 2001.

**FOR FURTHER INFORMATION CONTACT:**

Captain Richard T. Evans, 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 number: (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 of the Navy (Admiralty and Maritime Law), under authority delegated by the Secretary of the Navy, has certified that USS MCCAMPBELL (DDG 85) 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(f)(i) pertaining to placement of the masthead light or lights above and clear of all other lights and obstructions, Annex I paragraph 2(f)(ii) pertaining to the vertical placement of the task lights, Annex I paragraph 3(a) pertaining to the location of the forward masthead light in the forward quarter of the vessel, and the horizontal distance between the forward and after masthead lights, and Annex I paragraph 3(c) pertaining to the horizontal placement of the task lights. The Deputy Assistant Judge Advocate General of the Navy (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.