

U.S. Department of
Homeland Security

United States
Coast Guard



Commander
United States Coast Guard
Eighth District

Hale Boggs Federal Building
500 Poydras St.
New Orleans, LA 70130-3310
Staff Symbol: (dpi)
Phone: (504) 671-2105
Email: [D08-SMB-District-
Prevention@uscg.mil](mailto:D08-SMB-District-Prevention@uscg.mil)

16711
[REDACTED]

[REDACTED]

Dear [REDACTED]

Thank you for submitting a formal appeal in writing, dated August 29, 2024, in accordance with Title 46, Code of Federal Regulations (CFR) Subpart 1.03 – *Rights of Appeal* following Coast Guard Marine Safety Unit (MSU) Baton Rouge's denial of your request for reconsideration. Your appeal was in relation to a deficiency issued following the Inspected Towing Vessel (ITV) [REDACTED] inspection where you disagree with MSU Baton Rouge's issuance of Form CG-835V Deficiency No. 1: "Each towing vessel must have a reliable means to provide notification of high bilge levels. High bilge level alarm was missing from forward hold. Install high bilge level alarm (Cite: 46 CFR § 143.230(a)(3))."

You requested that MSU Baton Rouge rescind Form CG-835V Deficiency No. 1 with the basis for your appeal as follows: 1) certain 46 CFR Subchapter M – Towing Vessel regulations are general (i.e., 46 CFR § 143.230(a)(3) states high bilge level alarms must be provided, however does not specify locations); 2) [REDACTED] believes that the attending Marine Inspector (MI) may have misapplied 46 CFR Subchapter T – Small Passenger Vessel regulations that state high bilge level alarm locations; 3) since 2019 the ITV [REDACTED] has been inspected, surveyed, and underwent a drydock/internal structural examination without previously being required a high bilge level alarm in the forward hold; and 4) [REDACTED] believes the vast majority of ITVs are operating with high bilge level alarms only in the engine room vice other spaces.

After carefully reviewing all documentation that formed the appeal package, I have determined that MSU Baton Rouge's issuance of Form CG-835V Deficiency No. 1 was in accordance with 46 CFR § 143.230 – *Alarms and Monitoring*; therefore, I am respectfully denying your appeal and offer the following explanation.

In the beginning of 46 CFR, Part 2 – *Vessel Inspections* states, "The specific application of regulations concerning inspecting and certificating vessels is set forth in the specific subchapter governing a particular class of vessels." In reference to the 46 CFR Subchapter M Final Rule summary on the Notice of Proposed Rulemaking (NPRM) process, it stated public comments were received that suggested more prescriptive regulations in certain sections. However, the NPRM explained that the Coast Guard decided not to impose more prescriptive requirements for bilge pumping systems as an example due to factoring a multitude of different configurations across a large population of towing vessels. Similarly, it can be inferred that non-prescriptive regulations were chosen for high bilge level alarms based on how 46 CFR § 143.230(a)(5) is structured.

My review of review of MSU Baton Rouge's documentation affirmed that the attending MI properly applied towing vessel specific regulations as Form CG-835V cited 46 CFR § 143.230 (Subchapter M); identified a risk in the forward hold (i.e., through-hull penetration located below waterline for the transducer); and

exercised proper discretion by issuing a deficiency in accordance with 46 CFR § 2.01-10 – *Inspection Requirements (Domestic Vessels)*.

In summary, I concur with MSU Baton Rouge's inspection findings, risk assessment, and issuance of the deficiency. Coast Guard and Third Party Organizations (TPOs) have a shared responsibility to identify risks/hazards at any time such as during inspections, reinspections, and examinations per the aforementioned regulation. Accordingly, it is prudent for MIs during subsequent visits to conduct more detailed inspections as spaces could be original or have undergone alterations or modifications.

In relation to high bilge alarm locations, they are to be installed in spaces that are at risk of the accidental admission of water (i.e., engine room, spaces with through-hull penetrations). The aforementioned spaces and associated risks are common to all classes of inspected vessels, and from a safety standpoint, the high bilge alarms are in place to immediately alert the master and crewmembers in the event of a failure that enables them to readily identify and respond. Per 46 CFR § 143.230(a)(5): "*Each towing vessel must have a reliable means to provide notification when an emergency condition exists...The following alarms must be provided...High bilge levels.*"

If you feel aggrieved by my decision, you may make a formal appeal in writing to Commandant, U.S. Coast Guard Office of Commercial Vessel Compliance (CG-CVC), via (carbon copy) my office, in accordance with Title 46, CFR § 1.03-15 – *General*. Your appeal must contain a description of the decision being appealed and state your reason(s) for why Commandant (CG-CVC) should set aside or revise my decision. Should you have any questions, please do not hesitate to contact my Chief of the Prevention Division, [REDACTED] at [REDACTED]

Sincerely,

[REDACTED]
D. C. BARATA
Rear Admiral, U.S. Coast Guard
Commander, Eighth Coast Guard District

Copy: Commandant, U.S. Coast Guard Office of Commercial Vessel Compliance (CG-CVC)
Commander, Coast Guard Atlantic Area (LANT-54)
Commander, Coast Guard Sector New Orleans
Commanding Officer, Coast Guard Marine Safety Baton Rouge