

**Executive Order 12612, Federalism**

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, October 26, 1987, 3 CFR, 1987 Comp., p. 252.

**Executive Order 12778, Civil Justice Reform**

This rule meets the applicable standards of section 2(b)(2) of Executive

Order 12778, October 25, 1991, 56 FR 55195, 3 CFR, 1991 Comp., p. 309.

**List of Subjects in 44 CFR Part 64**

Flood insurance, Floodplains.  
Accordingly, 44 CFR part 64 is amended as follows:

**PART 64—[AMENDED]**

1. The authority citation for part 64 continues to read as follows:

**Authority:** 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

**§ 64.6 [Amended]**

2. The tables published under the authority of § 64.6 are amended as follows:

State/location	Community No.	Effective date of eligibility	Current effective date map date	Date Certain Federal assistance no longer available in special flood hazard areas
<b>Region IX</b>				
California: Hillsborough, city of, San Mateo County.	060320	June 18, 1975, Emerg.; Sept. 1, 1981, Reg.; Oct. 6, 1999, Susp.	Oct. 6, 1999 .....	Oct. 6, 1999.
<b>Region I</b>				
Vermont: Royalton, town of, Windsor County.	500153	July 24, 1975, Emerg.; Jan. 16, 1981, Reg.; Oct. 20, 1999, Susp.	Oct. 20, 1999 ....	Oct. 20, 1999.
<b>Region II</b>				
New York:				
Deerpark, town of, Orange County .....	360612	Apr. 4, 1975, Emerg.; Mar. 18, 1987, Reg.; Oct. 20, 1999, Susp.	.....do .....	Do.
Vienna, town of, Oneida County .....	360562	Aug. 27, 1975, Emerg.; Mar. 1, 1984, Reg.; Oct. 20, 1999, Susp.	.....do .....	Do.
<b>Region III</b>				
West Virginia: Mineral County, unincorporated area.	540129	Dec. 30, 1975, Emerg.; Sept. 27, 1991, Reg.; Oct. 20, 1999, Susp.	.....do .....	Do.
<b>Region V</b>				
Michigan: Owosso, township of, Shiawassee County.	260809	Oct. 22, 1987, Emerg.; Oct. 20, 1999, Reg.; Oct. 20, 1999, Susp.	.....do .....	Do.
<b>Region IX</b>				
California:				
Alturas, city of, Modoc County .....	060193	Aug. 7, 1975, Emerg.; Sept. 24, 1984, Reg.; Oct. 20, 1999, Susp.	.....do .....	Do.
Modoc County, unincorporated areas ...	060192	Feb. 19, 1976, Emerg.; Sept. 24, 1984, Reg.; Oct. 20, 1999, Susp.	.....do .....	Do.

Code for reading third column: Emerg.—Emergency; Reg.—Regular; Rein.—Reinstatement; Susp.—Suspension.

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance")

Issued: October 6, 1999.

**Michael J. Armstrong,**

*Associate Director for Mitigation.*

[FR Doc. 99-27257 Filed 10-18-99; 8:45 am]

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**DEPARTMENT OF TRANSPORTATION****Coast Guard****46 CFR Part 27**

[USCG-1998-4445]

RIN 2115-AF66

**Fire Protection Measures for Towing Vessels**

AGENCY: Coast Guard, DOT.

**ACTION:** Interim rule with request for comments.

**SUMMARY:** This interim rule implements measures for the early detection and control of fires on towing vessels. These measures increase the chances of fighting a fire with early warnings and better communications, and controlling the fire with shut-off valves and training and drills. The rule should decrease the number and severity of injuries to vessels' crews, prevent damage to vessels, structures and other property, and reduce the likelihood of a tank barge's drifting, grounding, and ultimately spilling its cargo.

**DATES:** *Effective Date:* This interim rule is effective January 19, 2000.

*Comment Date:* Comments must reach the Docket Management Facility on or before December 20, 1999.

The incorporation by reference of certain publications listed in the rule is approved by the Director of the Federal Register on January 19, 2000.

**ADDRESSES:** You may submit your comments and material by mail, hand delivery, fax, or electronic means to the Docket Management Facility at the address under **ADDRESSES**; but please submit your comments and material by only one of the following methods:

1. By mail to the Docket Management Facility (USCG-1998-4445), U.S. Department of Transportation, room PL-401, 400 Seventh Street SW., Washington, DC 20590-0001.

2. By hand delivery to room PL-401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

The telephone number is 202-366-9329.

3. By fax to Docket Management Facility at 202-493-2251.

4. Electronically through the Web Site for the Docket Management System at <http://dms.dot.gov>.

The Docket Management Facility maintains the public docket for this rulemaking. Comments, and documents as indicated in this preamble other than material proposed for incorporation by reference, will become part of this docket and will be available for inspection or copying at room PL-401 on the Plaza level of the Nassif Building at the same address between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also access this docket on the Internet at <http://dms.dot.gov>.

The material incorporated by reference is available for inspection at room 1308, U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593-0001 between 9:30 a.m. and 2 p.m., Monday through Friday, except Federal holidays. The telephone number is 202-267-1444.

**FOR FURTHER INFORMATION CONTACT:** For questions on this rule, contact Randall Eberly, P. E., Office of Design and Engineering Standards (G-MSE), Coast Guard, telephone 202-267-1861, electronic mail

[Reberly@comdt.uscg.mil](mailto:Reberly@comdt.uscg.mil). For questions on viewing or submitting material to the docket, contact Dorothy Walker, Chief, Dockets, Department of Transportation, telephone 202-366-9329.

#### **SUPPLEMENTARY INFORMATION:**

##### **Request for Comments**

The Coast Guard encourages you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (USCG-1998-4445), indicate the specific section of this document to which each comment applies, and give the reason for each comment. If you submit comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this interim rule in view of the comments.

##### **Public Meeting**

We do not now plan to hold a public meeting. But you may request one by

submitting a request to the Docket Management Facility at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

##### **Background and Purpose**

On January 19, 1996, the tugboat SCANDIA, with the tank barge NORTH CAPE in tow, caught fire five miles off the coast of Rhode Island. Crewmembers could not control the fire and, without power, they were unable to prevent the barge carrying 4 million gallons of oil from grounding and spilling about a quarter of its contents into the coastal waters. The NORTH CAPE spill led Congress to add, by § 902 of the 1996 Coast Guard Authorization Act (Pub. L. 104-324) (the Authorization Act), a new subsection, (f), to 46 U.S.C. 4102, to permit the Secretary of Transportation—"in consultation with the Towing Safety Advisory Committee" (TSAC)—to require fire-suppression measures on all towing vessels. We published a notice of proposed rulemaking (NPRM) on safety of towing vessels and tank barges [CGD 97-064] [RIN 2115-AF-53] on October 6, 1997 (62 FR 52057).

##### **Statutory Mandate**

Section 902 of the Authorization Act gave the Coast Guard the authority to require "the installation, maintenance, and use of a fire suppression system or other measures \* \* \* on board towing vessels." However, for vessels that tow non-self-propelled tank vessels, the Authorization Act did not just give the Coast Guard the authority; it mandated that the Coast Guard develop these requirements. The requirements that the Coast Guard is establishing in this rule are based, in part, on recommendations from the TSAC.

##### **Regulatory Approach**

###### *New Fire Protection Rules Apply to Most Towing Vessels*

This interim rule prescribes that most towing vessels must be fitted with—

- General alarms,
- Engine-room fire detection systems,
- Internal communication systems, and,
- Remote fuel-shutoff valves.

Furthermore, fire-fighting drills must be conducted and training requirements need to be established for crews on towing vessels.

Towing vessels that engage only in assistance towing, pollution response, or fleeting duties are exempted from the measures included in this IR. This rule

applies to all other towing vessels, not just those over a certain length or those that tow non-self-propelled tank vessels. Owners of existing towing vessels have until January 19, 2000, to install the required equipment. There were 155 reported fires on towing vessels from 1992-1996, and many of them occurred in the engine room. Each of these fires was a potential danger to the crew or obstruction to maritime commerce, and each resulted in property damage. Many of these fires resulted in a total constructive loss of the vessel, and several required the use of outside resources to bring under control. Also, the TSAC recommended that we apply this rule to towing vessels regardless of service so operators could maintain flexibility over the cargoes that they may tow.

The TSAC recommended that we apply this rule only to vessels at least 12 meters in length. Limiting application of this rule to those vessels, however, would not meet the intent of the mandate in the Authorization Act, which did not distinguish among vessels by length. The Act mandated the installation of fire-suppression measures on vessels that tow non-self-propelled tank vessels (barges); vessels that are less than 12 meters in length could be and often are engaged in towing such barges. Also, the Coast Guard is concerned that a fire that results in loss of propulsion and navigation capability could occur on any towing vessel, regardless of length.

##### **Requirement for a Fire-Suppression System**

This interim rule does not implement any requirements for fixed fire-suppression systems on towing vessels. In the NPRM, we expressed our position that gaseous suppression systems may not be effective on certain existing vessels. Those systems need relatively airtight enclosures to maintain extinguishing concentrations. Many existing towing vessels are constructed with engine rooms that would not be sufficiently airtight. Because of this possible constraint on the application of total-flooding systems to existing vessels, we proposed a combination of early-warning fire-detection systems, semi-portable fire extinguishers, fixed or portable fire pumps, and crew training as alternative means of fire protection. During the comment period for the NPRM, we received numerous comments critical of these alternative measures. Many of the comments felt that the measures did not meet the intent of the Authorization Act, because they would not require total-flooding fire-extinguishing systems. Further, the

comments felt that the measures did not consider vessels' characteristics, methods of operation, and nature of service, nor did they differentiate between ocean-going tugboats and inland towboats. We have carefully considered these comments and have decided to implement the lower cost, non-controversial measures in this interim rule, while we continue our review of the other measures. The rule reflects a number of limited changes based on public comments and are discussed below. It drops the sections of the proposed rule that concerned manual fire-fighting and fixed fire-extinguishing systems, to allow additional consideration and comment under a separate Supplemental Notice of Proposed Rulemaking (SNPRM) on fire-suppression systems and other measures for towing vessels [CGD 97-064] [RIN 2115-AF-53].

### Discussion of Comments and Changes

The Coast Guard received a total of 54 documents containing 208 comments to the public docket of the NPRM on Towing Vessel Safety. Comments consisted of letters to the docket and remarks at the public meetings in St. Louis, MO and Newport, RI. The 67 comments relating to systems for anchoring and barge retrieval were addressed in a separate rulemaking [63 FR 71754; Dec. 30, 1998] on emergency control measures for tank barges (USCG 1998-4443). The remaining 141 comments were concerned with suppressing and fighting fires. All comments concerning fixed fire-suppression systems, fire pumps, fire hoses and hydrants, or semi-portable fire extinguishers will be addressed in the SNPRM on fire suppression. Comments on other issues of fire protection raised in the NPRM are addressed in this interim rule. The following paragraphs summarize the comments and explain any changes made to the proposed rules for fire protection.

#### 1. General

Eleven comments stated that the proposed rule would not meet the intent of the Authorization Act, because it would not require total-flooding fire-extinguishing systems for all towing vessels, or at least not for all towing vessels used to transport oil and other hazardous substances. Additionally, the proposed rule does not consider vessel characteristics, methods of operation, or nature of service, nor does it differentiate between ocean-going tugboats and inland towboats.

Our proposed rule would have established minimum criteria for

manual fire-fighting equipment and for the training of crews on all towing vessels. Many of the public comments were critical of this approach. Their primary concern was for the safety of the crewmembers expected to fight the fires. Other comments noted that the greatest fire hazard on towing vessels is an engine-room fire caused by a fuel leak. Unless fire-fighting equipment used to fight an engine-room fire is installed in a protected location away from the engine room, it could be damaged by a fire. Fire pumps and generators used to power the fire pumps are generally located in the engine room. Aboard many towing vessels, there is no other space where they could be installed. The same concern was expressed about the location of the semi-portable fire extinguisher that we proposed. Many of the commenters felt that manual fire-fighting equipment would meet with limited success on an engine-room fire, unless self-contained breathing apparatus and personal protective gear (which the NPRM did not propose) were provided to the crew. Even then, the effectiveness of manual fire-fighting equipment would be limited in contrast to that of fixed fire-suppression systems. We are reconsidering the application of fixed fire-suppression systems and semi-portable fire extinguishers to all vessels. We will revisit these in the SNPRM.

One comment requested that we amend the proposed rule to require that all towing vessels transporting oil or other hazardous cargoes comply with the same standards for construction and safety applied to self-propelled tank vessels (46 CFR Subchapter D). It urged that criteria for construction, manning, and inspection are essential to ensure the safe transport of hazardous cargoes. The proposed rule would not go far enough, it held, in applying rules on fire and safety to towing vessels. Such a change is outside the scope of this rulemaking, and we did not incorporate it.

One comment indicated that many operating vessels already have systems for fire detection, fire extinguishing, general alarm, and internal communication that are functional but that would not meet the approval criteria in the proposed rule. The comment argued that such existing equipment should be accepted, as is. We note the concerns of this comment and have partially incorporated them in this interim rule. Existing fire-detection systems that use Underwriters Laboratory (UL), Inc.-listed components, and are installed according to specific criteria (listed in §§ 27.210 and 27.310), will now be accepted. We will require

that vessel owners have documentation from a Registered Professional Engineer or a recognized classification society (under 46 CFR part 8) certifying that existing fire-detection systems satisfy our criteria. Existing systems for general alarm and internal communication need not meet any approval criteria. They need only be capable of functioning as stated in this rule. Existing fire-extinguishing systems will be the subjects of the SNPRM.

One comment felt that the proposed requirements for towing vessels are overly restrictive when compared to the requirements for other types of vessels. The comment recommended that we change the proposed rule to mandate a fire prevention program in conjunction with standards for housekeeping and preventive maintenance as a substitute for the proposed systems for detecting and extinguishing fires. We do not agree with this comment. The administrative controls that the comment recommends are one element of successful fire protection. The proposed controls alone do not provide an adequate level of fire protection. The incidence and consequences of potential fires cannot be realistically predicted. Our rule, therefore, requires the set of equipment necessary to provide a minimum level of protection against possible fires.

One comment expressed concern that a vessel without an auxiliary generator could not provide electrical power for a fire pump. We note this concern and will address it further in the SNPRM.

Several comments requested that vessels, 12 meters or less in length, should be exempted from the proposed rule. We do not agree with these comments. As we previously stated (in the preamble to the NPRM), this would not meet the intent of the Authorization Act, because the Act does not vary its applicability based on vessel length. We are concerned about possible fires on any towing vessel regardless of its length.

Several comments stated that the proposed rule should not apply to all towing vessels, but should apply only to towing vessels used to transport oil and other hazardous substances. We noted in the NPRM our concern about possible fires on any towing vessel—regardless of service or materials transported. The rule, as proposed, is intended to provide a minimum level of fire protection for all towing vessels. As previously noted, the requirements for fixed fire-extinguishing systems in the engine rooms of towing vessels remain under review. The SNPRM will consider the need for fixed extinguishing systems, taking into account the service of the

vessel as well as the hazard level of the cargoes being transported.

One comment suggested that we require emergency lighting in the engine room. We agree in principle with the comment that emergency lighting may enhance access to the engine room during an emergency. However, we have not amended the proposed rule to require this. We expect that most towing vessels carry battery-powered flashlights and portable lanterns that are used daily. If so, it is a reasonable expectation that these lights would work when needed. We expect that these portable lights would be sufficient for use in emergencies.

Several comments expressed the view that the crew should not have to perform as a fire brigade. They said that this would unnecessarily expose the crew to danger. Instead, they felt that a more prudent approach would be to abandon the vessel, or to rely on fixed fire-suppression equipment. We note this concern and will address it further in the SNPRM.

One comment recommended that we extend the implementation date for the installation of the required fire-protection equipment. This would allow vessel operators the option of installing the required equipment at the next scheduled yard date rather than within the specified two-year period. The comment notes that, if all operators are required to install the fire-protection equipment during the same two-year cycle, suppliers of the equipment will face a backlog of orders that could prevent timely completion of the installations. We do not agree with the comment. The proposed two-year limit for complying, in conjunction with the time taken to complete the rulemaking, affords existing towing vessel operators more than ample opportunity to order and install the required equipment.

## 2. Definitions

One comment suggested that definitions of several terms were needed to clearly understand the proposed rule. The unclear terms were *operating station*, *accommodation space*, *contact maker*, *fire-detection system*, *pitot-tube pressure*, *working area*, and *machinery space*. We agree with this comment. We discuss the term *fire-detection system* further within the sections of the rules that apply to it. The term *pitot-tube pressure* no longer pertains to this rule. A contact maker is a type of switch; specifications for one are described in 46 CFR 113.25–11. We have added the remainder of the terms to the list of definitions in § 27.101. To avoid confusion, we have replaced the term *machinery space* used in the proposed

rule with the term *engine room* in all parts of the interim rule.

## 3. General Alarm

One comment expressed the opinion that a general alarm should not be required on a small vessel, because the crew could communicate by voice or by sounding the vessel's horn. We disagree. The primary goal of the proposed rule was to ensure that a distinctive emergency signal would be installed on each towing vessel, to quickly alert the crew of fire or other emergency. A vessel's horn regularly sounds for non-emergencies. A crewmember's voice may not be clearly heard or understood over engine-room noise, resulting in mistaken or delayed fire-fighting. The general alarm that we require is a universally recognized signal for the crew to respond to their assigned emergency stations.

Several comments felt that §§ 27.205(a)(4) and proposed 27.305(a)(3), here 27.305(a)(4), should require monthly instead of weekly testing of the general alarm. Again, we disagree. The general alarm is an emergency safety system; as such, it must be functional at all times. Weekly testing of the alarm is consistent with our rules for inspected vessels and provides a high degree of confidence that the alarm will operate when needed.

A number of comments did not understand our intent, or they disagreed with our proposed rule, for the design of the general alarm stated in §§ 27.205 and 27.305. A particular concern was the requirement to install visible warning devices in all areas on new vessels. Many comments felt that a standardized general alarm should be required, with audible alarms placed throughout the vessel, including supplemental visible alarms in areas with high levels of background noise. Upon further review of the proposed rule, we agree that the two systems could be misinterpreted in their existing form. We have rewritten them to clarify the requirements and have modified them to make them consistent for both existing and new vessels. This change deletes the requirement for general alarms on new vessels to be both audible and visible. This rule requires that all general alarms consist of audible warnings located so they can be heard throughout the vessel. It also requires that, in areas where it may be difficult to hear those warnings, supplemental visible warnings must be installed. This change should ensure that a universal warning is in place on both new and existing vessels. Uniform general alarms will prevent confusion among

crewmembers that may transfer between different vessels.

## 4. Fire Detection

One comment requested that we change §§ 27.210 and 27.310 to exempt small vessels from the requirement to install fire-detection systems. The comment felt that a crew could provide a fire watch and sound an alarm by voice or by sounding a vessel's horn. We do not agree. The goal of the proposed rule was to ensure that a dedicated, reliable system would be installed aboard towing vessels, to provide early warning of fires. An approved fire-detection system provides continuous surveillance of the protected area. Reliance on crewmembers that may be distracted or busy performing assigned duties does not provide an equivalent level of protection.

Another comment noted that the proposed rule would have required an approved fire-detection system but not the maintenance or testing of the system. We agree with this observation, and §§ 27.210(b) and 27.310(b) will require the maintenance and testing of the system according to the manufacturer's instruction manual.

Several comments said that §§ 27.210 and 27.310 contain insufficient design criteria to let the public develop realistic cost estimates for the proposed fire-detection systems. We disagree with this observation. Manufacturers provided us with basic information on costs of their systems. We recognize that each vessel may have unique configurations that could alter the final cost of its system. However, we believe that this rulemaking contains adequate information to allow the development of reasonable estimates of cost.

Numerous comments regarded the design basis of the proposed fire-detection systems. Several noted that many existing vessels currently have systems that comply with NFPA 72, which is the shore-based criterion for such systems. But NFPA 72 allows the spacing of heat detectors at much greater distances than the 3 meters (10 feet) that proposed §§ 27.210(b) and 27.310(b) would have required. Since the existing systems may not have their detectors spaced at 3-meter intervals, these systems would have to be replaced. The comments suggested that, for this and other technical reasons, we should accept existing systems that comply with NFPA 72. We agree. Existing systems that are certified to be UL-listed and are installed under specific criteria listed in §§ 27.210 and 27.310 will be accepted. The standard of 3-meter spacing drops from the rule.

Another group of comments expressed related concerns with the proposed 3-meter standard for the placement of fire detectors on the overhead of the engine room. The comments suggested that fire detectors located there at 3-meter intervals might not be adequate to protect against all hazards. They suggested, as an alternative, a combination of heat and smoke detectors located on the overhead and at lower levels, near obvious hazards such as main engines or generators. Several of the group felt that the rule should allow heat detectors, smoke detectors, a combination of heat and smoke detectors, or a continuously manned engine room. We partially agree with these comments. We have changed the rule to allow fire-detection systems to comply with design criteria of the Coast Guard (listed in §§ 27.210 and 27.310) or with NFPA 72. These systems may use heat detectors, smoke detectors, or a combination of the two. We do not, however, consider a continuously manned engine room an acceptable substitute for any such system. The attention of the personnel on duty in the engine room might be focused on routine tasks or maintenance. Because of these parallel duties, the engineers might not immediately notice incipient fires. Even a continuously manned engine room must have a fire-detection system to ensure the needed level of safety.

Several comments concerned proposed §§ 27.210(f) and 27.310(f), which would have required that the fire-detection system not be used for any other purpose. The comments stated that the rule should let the system be connected to the automation or other monitoring system of the engine room. We disagree. The connection of non-emergency equipment to the fire-detection system introduces a potential for spurious electrical faults to damage the system; this could decrease the reliability of the system. This rule accepts fire-detection systems approved by the Coast Guard or listed by UL only for service as fire alarms. If other devices are connected to fire-alarm panels, then there is no way of ensuring that alarms will perform as necessary.

#### 5. Internal Communications

One comment expressed the opinion that internal communication systems are not needed on small vessels, because the crew could communicate by voice. We agree with this comment. In response, we have changed the interim rule to allow internal communication requirements similar to those listed in 46 CFR part 184 of Subchapter T and 46 CFR part 121 of Subchapter K. To be

consistent with other provisions of the existing regulations, this exemption will also apply to twin-screw vessels with operating station control for both engines. Subchapters T and K regulations leave the determination of acceptable arrangements on small vessels up to the local Officer in Charge, Marine Inspection. Towing vessels are not normally subject to the jurisdiction of the local inspector; thus alternate performance criteria are listed in the rule. Changes to the rule will allow small vessels, where the operating station, control station, and the propulsion engine room are sufficiently close together, to use direct voice communication instead of an internal communication system. For the purpose of this regulation, we feel that the separation criterion "sufficiently close" is satisfied, if the crew is able to maintain unobstructed visual contact and the separation distance between the operating station and the engine room access door does not exceed 3 meters (10 feet).

Another comment requested clarification of proposed §§ 27.215(a) and 27.315(a) regarding the necessary degree of independence for the system. It asked whether the system needs to be electrically and physically isolated from the vessel's electrical system. It also suggested that battery-powered public-address (PA) systems or portable VHF radios should fulfill this requirement on both existing and new vessels. We agree with this comment, and have changed the sections accordingly. Our intent here is to ensure the presence of a reliable system, one that will continue to operate even if the vessel's electrical power fails or shuts down. We regard either an installed PA system with backup power from batteries, or handheld VHF radios, as meeting these criteria. It is not necessary for the system to be completely distinct from the vessel's electrical system. Our intent is to ensure there is a source of power for the communication system that does not depend on the towing vessel's electrical system.

One comment recommended that we require the systems for internal communication to be intrinsically safe. We do not agree. The system is to allow contact between the engine room and the operating station. Neither of these areas is a hazardous location where specialized electrical equipment must be installed.

#### 6. Fire Pumps, Fire Main, and Fire Hose

Numerous comments concerned the proposed rule for fire pumps, hydrants, and hoses. Many of the comments wondered how an installed fire pump

could be of any use in combating an engine-room fire if it or its source of power were located in the engine room. Others noted that the requirement for a portable pump made sense in part precisely because the pump would not be affected by an engine-room fire, but noted further that it would be extremely difficult to effectively deploy and start the pump in an emergency. Many others suggested that manual fire-fighting in an engine room would be very difficult for crewmembers not trained as professional fire fighters. Because of these comments critical of the proposed rule, we are reserving all sections of the proposed rule that pertain to manual fire-fighting for further consideration in the SNPRM. This may reduce or remove the proposed rule for manual fire-fighting equipment if our further consideration concludes that fixed extinguishing systems or other measures offer a more effective means of suppressing engine-room fires aboard towing vessels.

#### 7. Fire-Extinguishing Equipment

One comment noted that proposed § 27.325 would have allowed the operator of a new towing vessel 24 meters in length or longer to install either a semi-portable fire extinguisher or a fixed fire-extinguishing system. The comment expressed the view that, on new vessels, fixed systems should be required. That was our intent with the NPRM; only through a typographical error did the proposed rule state that the installation of either type of system was acceptable. A corrective notice [62 FR 60939] published on November 13, 1997, made this clear: The proposed rule should have stated that both a semi-portable extinguisher *and* a fixed system would be required. We have decided, however, to reserve this section for the SNPRM.

Numerous comments concerning the proposed requirements for semi-portable fire extinguishers took a different view. Several felt that no extinguisher should be located in the engine room, to prevent it from being damaged during a fire. Others stated that several small extinguishers would be more effective than one large one. In response to the comments we received on the issue of manual versus fixed fire extinguishing, we have decided to reserve this section as well. It, too, will receive further consideration in the SNPRM.

#### 8. Fuel Shutoffs

Several comments requested that we change the requirements for fuel shutoffs proposed in § 27.340(f). Many suggested that we allow, for new

vessels, remote engine shutdown instead of remote fuel shutoff. A contrary comment recommended that we not allow the remote engine shutdown on existing vessels and that, for effective extinguishing of the fire, we instead require only remote fuel shutoffs in all cases. The comments favoring remote engine shutdowns noted that, if a vessel with multiple engines experienced an engine fire, a fuel shutoff would disable all of the engines, reducing maneuvering flexibility. Some of these reasoned that, if all vessels had remote engine shutdowns instead of remote fuel shutoffs, only the affected engine would need to be stopped, so the remaining engine could be used to safely maneuver the vessel. Others observed that, if a diesel engine were stopped by shutting off its fuel supply, it could not be easily restarted, and would require a shore-based mechanic to repair. We do not agree with the comments that a remote fuel shutoff should be optional; we agree with the comment that one should be required on every vessel and have changed the rule accordingly. As the preamble to the NPRM noted, a fuel shutoff is the preferred means of protection. It allows the crew to stop the flow of fuel into the engine room from the fuel tanks, but need not be immediately closed. Moreover, on a vessel with multiple engines, a fuel shutoff could be installed on the fuel line to each engine. A remote engine shutdown, by contrast, leaves no way to stop the flow of fuel into the engine room if a fuel line or fitting is damaged. Fire fighting must be coordinated with the operation of the vessel and must also be tailored to the situation as it unfolds. Ordinarily, the master decides when to close the fuel shutoff. Emergency maneuvering could occur when conditions allowed. In addition, the engines could be stopped by normal means before the fuel shutoff is operated, to help prevent complications with restart. Effective fire-fighting will require the ability to shut off the gravity flow of fuel into the engine room regardless of the method used to extinguish the fire (manual or fixed). Remote engine shutdowns will not afford this ability.

One group of comments requested that we change proposed § 27.340(f) to require the fuel shutoff only on the main engine(s). They noted that a complete fuel shutoff would stop the auxiliary generator, which in turn would disable the electric fire pump. Others asked whether we would require remote fuel shutoffs for every fuel line. Our response is yes; fires involving the main engine are not the only hazard that we

are concerned about. Auxiliary engines such as diesel generators could also suffer fires related to fuel systems. The proposed rule clearly stated, and this interim rule clearly states, that any fuel line that could be subjected to internal head pressure from fuel in a tank must be fitted with a remotely-operated positive-shutoff valve. Several options exist for the arrangement of the valve. The valve can be located at the main-tank discharge, upstream of any fuel-line branches. If this valve closes, then the flow of all combustible fuel to the engine room stops. Operators of vessels with multiple engines or auxiliaries do not have to install single valves to stop the flow of fuel from the main tanks; they may install multiple valves such that selected engines can continue running during a fire, if conditions permit.

#### 9. Fire Axes

Several comments asked about our reasoning for requiring a fire axe in § 27.235. Fire axes are used for forcible entry and for salvage and overhaul. A pick-headed fire axe can help open burning insulation and lagging or storage cabinets to ensure that all local hot spots are exposed and properly extinguished. Because the fire axe is part of the previously proposed manual fire-fighting equipment, we have reserved this section for further comment in the SNPRM.

#### 10. Muster Lists

Several comments related to our proposed requirements for muster lists. Because muster lists are an element of the proposed manual method of fire-fighting, we have reserved this section for further consideration in the SNPRM.

#### 11. Drills

One comment recommended we require all licensed personnel on towing vessels be certified as trained in fire fighting. While we agree with this comment in principle, we do not intend to amend the proposed rule because the benefit-cost analysis does not support such a requirement. Further, changes to the requirements for licensing maritime personnel are outside the scope of this rulemaking. Most persons serving on towing vessels in inland or coastal service do not carry licenses that require them to attend approved fire-fighting schools. Also, these vessels operate where municipal fire departments may be available to supplement their crews in fire fighting. Our rules require all crewmembers to participate in monthly drills aboard their vessels. These drills should familiarize them with the

specific emergency procedures and equipment aboard their vessels.

Several comments asked that we change proposed § 27.355(c) to let the required fire drills and instruction be given by persons licensed as operators of uninspected towing vessels (OUTVs). We agree with this comment and have deleted the proposed requirements that drills be conducted by a person licensed for operation of inspected vessels of 100 gross tons or more.

One comment expressed concerns regarding the proposed requirements for training and drills in § 27.355. The comment maintained that the requirements would entail monthly drills on engine-room fires and periodic training on other fire-related activities. It suggested that the drills include practice in responding to different types of emergencies and that training occur no more often than quarterly. We feel that the comment has misinterpreted the proposed requirements. We have proposed monthly drills to ensure that the crew is familiar with its responsibilities during an emergency. The drills should help the crew to practice locating and operating the emergency equipment. They should also allow the crew to consider contingencies for responding to unplanned events such as blocked access, damaged or missing equipment, and search and rescue. The fire-fighting exercise in the engine room (see § 27.355(a)(1)) is intended to ensure crews regularly practice this important evolution. We expect that the monthly drills will vary to cover a variety of fires or related emergencies that could occur on the vessel. Changes in the vessel's routes or cargoes may introduce different scenarios or circumstances. We do not want the crew to perform monthly drills responsive only to fires in the engine room. We have not changed this section in response to this comment.

#### 12. Fuel Systems

One comment suggested that the final rule cover fuel systems for portable pumps on existing vessels. Because portable pumps are used for manual fire-fighting, we have reserved treatment of this issue for the SNPRM.

One person questioned the lack of a definition of a 30-by-30-mesh flame screen in § 27.340(d)(1), and noted that the proposed rule did not specify that the screen be corrosion-resistant. We agree that a flame screen should be corrosion-resistant and have changed this rule accordingly. We do not agree that further explanation of the term 30-by-30 mesh is warranted. This description of the flame screen is

commonly understood and is consistent with 46 CFR Subchapter F, Marine Engineering.

Several comments noted that § 27.340(c) as proposed could be interpreted to prohibit portable fire pumps with gasoline-powered engines. It is not our intent to prohibit the use of portable fire pumps. Because portable pumps are used for manual fire-fighting, we have also reserved treatment of this issue for the SNPRM.

One comment noted that § 27.340(d) as proposed would require the fitting of each fuel tank with a vent pipe connected to the highest point of the tank and terminating on the weather deck. The comment felt that this would prevent the operator of a towing vessel from leading a common vent pipe from two or more fuel tanks. This is not the intent. The individual vent pipes from several fuel tanks containing liquids in the same class of hazards could be connected to a header that vents on the weather deck, as long as the piping arrangements and diameters were adequately sized to prevent overpressuring the tanks. We have revised this paragraph to prevent confusion.

One comment asked that we clarify the proposed rule to indicate that 46 CFR Chapter I, Subchapter F, Marine Engineering, does not apply to towing vessels. The comment is partly correct. Subchapter F does not apply to the vessels affected by this rulemaking—unless they use Bunker C as a fuel

source. Since this rule describes specific criteria for the design and installation of fuel systems, it needs to include how Bunker C is handled.

#### Incorporation by Reference

The Director of the Federal Register has approved the material in § 27.340, paragraphs (b), (e) and (g), for incorporation by reference under 5 U.S.C. 552(a) and 1 CFR part 51. The material is available for inspection where indicated under **ADDRESSES**. Copies of the material are available from the sources listed in those paragraphs.

#### Regulatory Evaluation

This interim rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. It has not been reviewed by the Office of Management and Budget under that Order. However, it is significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979) because of public interest generated by the NPRM and the Office of the Secretary has reviewed it.

A Regulatory Assessment under paragraph 10e of the regulatory policies and procedures of DOT is available in the docket for inspection or copying where indicated under **ADDRESSES**. A summary of the Assessment follows; unless otherwise indicated, cost and benefit data are expressed in end-of-year

values for 1998 and reflect a 15-year period of analysis.

#### Summary of Benefits

Measures published in this interim rule should yield a benefit-to-cost ratio of 1.3-to-1. The benefits, in the form of avoided injuries as well as damage to vessels and property, are approximately \$31.7 million. In addition, the measures are estimated to prevent 6,065 barrels of oil pollution. The table following this paragraph illustrates the calculation of net cost-effectiveness from total quantifiable costs and benefits resulting from implementation of this rule. The benefits are normalized into cost-effectiveness ratios to reflect the cost per unit of oil pollution averted. Here's how: The total estimated dollar cost of this rule is shown on Line (1); total property damage and injuries averted, a benefit expressed in dollars, is shown on Line (2) and is subtracted from total dollar costs to yield a net cost, which is shown on Line (3); pollution averted, which is expressed in barrels of oil not spilled, is shown on Line (4); and the net cost from Line (3) divided by the pollution averted benefit from Line (4) to yield an expression of cost-effectiveness expressed in units of net discounted dollars per discounted barrels of oil not spilled appears on the bottom line. This procedure permits us to compare benefits from averted pollution and property damage benefits in terms of net cost-effectiveness.

TABLE 1.—FIRE PROTECTION MEASURES FOR TOWING VESSELS: COST EFFECTIVENESS EXPRESSED IN 1998 DOLLARS PER BARREL OF OIL NOT SPILLED

Type of benefits and costs	Quantity	Units
(1) Cost of this rule .....	23,559,966	Dollars (PV).
(2) Property Damage and Injuries-averted .....	31,747,815	Dollars (PV).
(3) Net cost (1) – (2) .....	– 8,187,849	Dollars (PV).
(4) Pollution averted .....	6,065	Barrels of oil unspilled (PV).
<i>Net cost effectiveness (3)÷(4) .....</i>	<i>– 1,350</i>	<i>Dollars per barrel unspilled.</i>

**Note:** Benefits, shown on lines (2) and (4), are italicized. On the bottom line, net cost-effectiveness is underlined and represents a common expression of different benefits quantified in unlike units of measure. In this case, they are: Averted damage to vessels and equipment and injuries to crewmembers, expressed in dollars; and, Oil not spilled overboard into bodies of water, expressed in barrels of oil not spilled.

In order to express the benefits in an expression of like units, benefits expressed in dollars on line (2) are subtracted from the cost of the rule expressed in dollars on line (1), resulting in the net cost of the rule on line (3). Net cost is divided by pollution benefits to yield an expression of net cost-effectiveness expressed in dollars per barrel of oil not spilled. The sign (+/–) of the net cost-effectiveness expression indicates the relationship between non-pollution benefits and the cost of the rule. If the sign is negative, dollar benefits exceed the cost; if it's positive, the cost of the rule exceeds the dollar benefit component. All cost-effectiveness ratios expressed in dollars per barrel of oil not spilled may be compared with one-another. Smaller dollar values in the numerator, including those with negative signs, signify greater cost-effectiveness.

The principal benefit of this rule is protection against oil spills and property damage that may result when a fire causes a towing vessel to lose control over the tank barge it is towing, permitting the barge to run aground. Quantifiable benefits accrue from averted pollution measured in barrels of oil not spilled and averted damage to property such as vessels and machinery, measured in dollars.

To construct the benefits analysis, the Coast Guard employed its Marine Safety Management System (MSMS) database and underlying reports to provide a reasonable approximation for modeling marine casualties and pollution incidents. The model postulates that, if requirements in this rule were not enacted, the normalized frequency and severity of pollution and damage due to fires on towing vessels would continue

at about the same magnitude as during a representative five-year base period—which the Coast Guard identified as 1992–1996. This period samples the maritime environment after the Oil Pollution Act of 1990 (OPA 90); the Coast Guard considers the period long enough to capture a representative

history, while short enough to be reasonably current. The Coast Guard considered the period 1992–1997; it did not choose that time period because reports for 1997 remain open and are too preliminary to present a fair representation.

The Coast Guard recognized that the nature of the maritime environment—blending people, vessels, machines, and the sea—still might cause some of the casualties targeted by this rule after it is in force. Accordingly, we assembled a team comprised of marine inspectors, program analysts, and economists, who reviewed the data and individual case files, and consulted fire-protection engineers and various subject-matter experts with field experience. From these two efforts, the Coast Guard identified probabilities of effectiveness for the fire-protection requirements and for closely related proposals that are fair and reasonable assessments of likely future performance.

The team identified 155 cases that occurred between January 1, 1992 to December 31, 1996, that involved fires on towing vessels. The Coast Guard reviewed the casualty data and narratives for each incident. These cases provided the pool from which it estimated the expected benefits. Each of these cases is summarized in Appendix G of the Regulatory Assessment (available in the docket). For all five requirements, the Coast Guard reviewed casualty data of each case to assess whether the casualty could have been prevented or diminished in severity by this interim rule. Coast Guard analysts assigned an effectiveness degree representing the extent each proposed measure would have favorably affected each casualty case. They then tabulated average effectiveness percentages levels for each requirement: fire detection systems—15.4%; training and drills—12.3%; fuel shutoff valves—12%; internal vessel communication systems—7.4%; and general alarms—7.7%. Most cases would likely have benefited from two or more of the measures. That is why they used a methodology, which took into account the typical sequence in which the five requirements would come into play during a casualty. For these cases fire-detection systems would confer “first tier” benefits; internal vessel communication systems, “second tier” benefits; training and drills, “third tier” benefits; general alarms, “fourth tier” benefits; and fuel-shutoff valves, “fifth tier” benefits. Apportioning the benefits in this way avoids multiple counting of benefits.

The principal purposes of this rule are to avert oil pollution and prevent

damage and injuries, since they are public benefits. Our analysis projects that, from the effective date through 2014, the requirements implemented with this rule will result in a total pollution benefit of about 6,065 barrels of oil (not spilled), and total damage and injuries averted worth an estimated \$31.7 million (present value).

#### Summary of Costs

The towing vessel industry will bear the costs of this rule. Most costs will occur during the two-year phase-in period following the rule's publication date. Owners and operators of existing vessels required to install equipment no doubt will take advantage of the extended phase-in period as they plan for and incur onetime costs of purchasing and installing the general alarms (\$2,600), the fire-detection systems (\$2,880), the internal communication systems (\$1,000), and the fuel-shutoff valves (\$2,500).

For the purpose of this analysis, the Coast Guard assumes that half of the vessels will comply with each required measure during the first year of the phase-in period and half of the vessels will comply during the second year.

The total cost of this rule is the sum of the costs to the towing industry for the several requirements in the rule. The following table lists those costs, requirement by requirement:

TABLE 2.—Two-year phase-in costs of the requirement due to the interim rule on Fire Protection expressed in 1998 dollars.

Requirement	2-Year Initial Cost	Total Cost [includes annual recurring costs] <sup>1</sup>
General Alarm ..	\$1,414,955	\$1,471,894
Internal Vessel Communication .....	875,081	1,078,254
Fire Detection ...	5,098,059	10,624,372
Fuel-Shutoff Valve .....	7,024,151	7,279,647
Training and Drills .....	616,534	3,105,799

<sup>1</sup> Over the period of analysis from 1999 until 2015.

During the two-year phase-in period within which existing vessels must come into compliance, this rule is estimated to cost industry about \$15 million. Over the period of analysis (1999 until 2015), the projected total cost is approximately \$23.6M (PV).

#### Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub L.

104–4, 109 Stat. 48) requires Federal agencies to assess the effects of certain regulatory actions on State, local, and tribal governments, and the private sector. Under sections 202 and 205 of the UMRA, the Coast Guard generally must prepare a written statement of economic and regulatory alternatives for proposed and final rules that contain Federal mandates. A “Federal mandate” is a new or additional enforceable duty, imposed on any State, local or tribal government, or the private sector. If any Federal mandate causes those entities to spend, in the aggregate, \$100 million or more in any one year, an analysis under the UMRA is necessary.

While several State and local governments operate some towing vessels, the majority of affected towing vessels are owned and operated by entities in the private sector. This interim rule does not now directly affect tribal governments. The total burden of Federal mandates imposed by this rule will not result in annual expenditures of \$100 million or more. Therefore, sections 202 and 205 of the UMRA do not apply.

#### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard considers the economic impact on small entities of each rule for which a general notice of proposed rulemaking is required. “Small Entities” include 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.

An assessment of this interim rule's impacts on small entities is included in the regulatory assessment; it is available in the docket for inspection or copying where indicated under **ADDRESSES**.

The owner of a vessel that is not in compliance with any of the five requirements would have to spend \$9,480, on average, to meet the measures outlined in this interim rule. However, most vessels are already in compliance with some of the measures as shown in Table 3. In an effort to determine the average financial impact on towing vessel owners/operators, the Coast Guard estimated the expected cost of compliance with the interim rule. The expected cost of this rulemaking is simply the sum of each requirement's cost weighted according to their probabilities of occurrence. On average, towing vessel owners and operators are expected to spend \$3,306 per affected vessel to comply with this rulemaking (Table 3).



TABLE 3.—EQUIPMENT COST AND TOWING VESSEL COMPLIANCE

Requirement	(1) Cost of equipment	(2) Towing vessels with equipment	(3) Towing vessels without equipment	(4) Probability of incurring cost (% without equipment)	(5) Expected cost [(1) × (4) = (5)];
General Alarm .....	\$2,600	4,216	602	12.5	\$325.00
Internal Vessel Communication .....	1,000	3,850	968	20.09	200.90
Fire Detection .....	2,880	2,982	1,835	38.08	1,096.70
Fuel Shutoff Valve .....	2,500	1,710	3,108	64.5	1,612.50
Training and Drills .....	500	4,136	682	14.15	70.75
Total .....	9,480	16,892	7,195	.....	3,305.85

The impact of this rule will fall primarily on the owners and operators of towing vessels that do not already carry all of the equipment or take all of the measures required. The rule will require such owners and operators to purchase and install specific fire-protection equipment. Furthermore, masters and mates of towing vessels must be able to familiarize their crews with procedures to control and extinguish fires on board their towing vessels. Owners and operators of towing vessels are responsible for both inspecting their fire-fighting equipment and systems and maintaining them in good working order. The purpose is to decrease the probability of fires on vessels towing barges, because they may lead to barges drifting out of control—which could result in harm to people, pollution, and property damage.

We are establishing a two-year phase-in period for the existing towing vessel requirements of equipment and measures. Although we received no comments on the NPRM concerning small entities, we recognize that a significant number of towing vessels are likely owned and operated by small firms not dominant in the industry. The two-year phase-in permits vessels to undergo the installation of equipment required by this rule during normal inactive periods. They may thus avoid incurring the extra opportunity costs of lost revenue during that time. The long phase-in will thus permit most small entities to explore the market, and to plan and schedule installations during normal downtime (dockside).

The equipment required by this rule is in common use in the industry and does not represent novel or untried technology. Some small entities are likely to be among the majority of owners and operators who already meet some or all of the requirements. This rule will result in a financial burden for some of those owners and operators who must purchase and install equipment. The costs are very low in

comparison with the replacement cost of a towing vessel, and extremely low in comparison with the damage that could be caused by, and the liability that could result from, an accident and resultant spill.

The crafting of this rule so that many affected vessels are already in compliance, and the two-year phase-in period for installation of fire-protection equipment and systems on existing vessels, provide important accommodations to, and significant flexibility for, small entities and others affected by this rule.

Accordingly, the Commandant certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this rule will not have a significant economic impact on a substantial number of small entities. If, however, you think that your business or organization qualifies as a small entity, and that this rule will have a significant economic impact on your business or organization, please submit comments (see **ADDRESSES**) explaining why you think it qualifies and in what way, and to what degree, this rule will affect it economically.

#### Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), the Coast Guard wants to assist small entities in understanding this interim rule so that they can better evaluate its effects on them and participate in the rulemaking. If your small business or organization is affected by this rule and you have questions concerning its provisions or options for compliance, please call Mr. Randall Eberly, telephone 202–267–1861.

The Small Business and Agriculture Regulatory Enforcement Ombudsman and 10 Regional Fairness Boards were established to receive comments from small businesses about enforcement by Federal agencies. The Ombudsman will annually evaluate the enforcement

activities and rate each agency's responsiveness to small business. If you wish to comment on enforcement by the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

#### Collection of Information

This interim rule does not provide for a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). It does require standard wording to appear on each general alarm bell and flashing light. This wording is to inform crewmembers that when the general alarm bell sounds, or the red light flashes, they should proceed to their assigned stations. This labeling is exempt from the Office of Management and Budget guidelines for collection and posting of information since exact wording is provided.

#### Federalism

The Coast Guard has analyzed this interim rule in accordance with the principles and criteria contained in Executive Order 12612. In the case of any towing vessel towing a non-self-propelled tank vessel, this rulemaking was statutorily mandated, so this rule does not require a Federalism assessment. In the case of all other vessels to which this rule applies, the Coast Guard has determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Although the Coast Guard has determined that this rule does not warrant the preparation of a Federalism Assessment, the rule does preempt portions of State law regarding fire-protection measures for towing vessels. The rule primarily concerns the design, construction, and equipment associated with fire-protection measures for towing vessels. Courts have long held that the Coast Guard has preemptive regulatory authority on matters of design,

construction, and equipment on vessels—either where it has received a statutory mandate to regulate, or, if the authority to regulate is discretionary, where it has exercised this authority. [See, e.g., *Kelly v. Washington*, 302 U.S. 1 (1937); *Ray v. Atlantic Richfield Co.*, 435 U.S. 151 (1979); *International Association of Independent Tanker Owners (Intertanko) v. Locke*, 148 F.3d 1053 (9th Cir. 1998) petitions for cert. filed (U.S. Apr. 23, 1999) (No. 98–1701, 1706)]. In the case of this rule, the statutory authorities under which the regulations are promulgated mandate action for inspected towing vessels and any towing vessels towing a non-self-propelled tank vessel [per 46 U.S.C. 3306(a)(3) and 4102(f)(2)], and give discretionary authority for all other towing vessels [per 46 U.S.C. 4102(f)(1)]. Under either premise, the preemptive impact of the Coast Guard's actions in this rulemaking is the same.

One State, Rhode Island, has enacted regulations that this rule preempts. Our regulations on internal communications [46 CFR 27.215 and 27.315] preempt 46 R.I. Gen. Laws, § 12.5–23(d). Our regulations on automated fire-detection systems [46 CFR 27.210 and 27.310] preempt 46 R.I. Gen. Laws, § 12.5–23(e).

Since Rhode Island has indicated its willingness to accede to Federal regulation of towing vessels under similar circumstances [see 46 R.I. Gen. Laws, § 12.6–12], and since the Coast Guard knows of no other States that have enacted similar regulations pertaining to internal communications and fire-protection measures aboard towing vessels, the Coast Guard expects the Federalism implications of this rule to be minimal. However, if comments received indicate there is a need for further preemption analysis, the Coast Guard will conduct one.

## Environment

The Coast Guard considered the environmental impact of this interim rule and concluded that under Figure 2–1, paragraphs (34) (c) and (d) of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation. A “Categorical Exclusion Determination” is available in the docket for inspection or copying where indicated under ADDRESSES.

## List of Subjects in 46 CFR Part 27

Fire prevention, Incorporation by reference, Marine safety, Reporting and recordkeeping requirements, Vessels.

For the reasons discussed in the preamble, the Coast Guard adds 46 CFR part 27 to read as follows:

## PART 27—TOWING VESSELS

### Subpart A—General Provisions for Fire Protection on Towing Vessel

Sec.

27.100 What towing vessels does this part affect?

27.101 Definitions.

27.102 Incorporation by reference.

### Subpart B—Fire Protection Measures for Existing Towing Vessels

Sec.

27.200 What are the requirements for an existing towing vessel?

27.205 What are the requirements for a general alarm on an existing towing vessel?

27.210 What are the requirements for fire detection on an existing towing vessel?

27.215 What are the requirements for internal communication on an existing towing vessel?

27.220 If an existing towing vessel is 24 meters (79 feet) or longer in length, what are the requirements for fire pump, fire main, and fire hose? [Reserved]

27.221 If an existing towing vessel is less than 24 meters (79 feet) in length, what are the requirements for fire pump and fire hose? [Reserved]

27.225 What type of portable fire-extinguisher is required on an existing towing vessel? [Reserved]

27.230 What are the requirements for a fuel shutoff on an existing towing vessel?

27.235 Is a fire axe required on an existing towing vessel? [Reserved]

27.240 What are the requirements for a muster list on an existing towing vessel? [Reserved]

27.245 What are the requirements for the instruction, drills, and safety orientations conducted on an existing towing vessel?

### Subpart C—Fire Protection Measures for New Towing Vessels

Sec.

27.300 What are the requirements for a new towing vessel?

27.305 What are the requirements for a general alarm on a new towing vessel?

27.310 What are the requirements for fire detection on a new towing vessel?

27.315 What are the requirements for internal communication on a new towing vessel?

27.320 If a new towing vessel is 24 meters (79 feet) or longer in length, what are the requirements for fire pump, fire main, and fire hose? [Reserved]

27.321 If a new towing vessel is less than 24 meters (79 feet) in length, what are the requirements for fire pump and fire hose? [Reserved]

27.325 If a new towing vessel is 24 meters (79 feet) or longer in length, what type of fire-extinguishing equipment must it carry? [Reserved]

27.326 If a new towing vessel is less than 24 meters (79 feet) in length, what type of fire-extinguishing equipment must it carry? [Reserved]

27.340 What are the requirements for a fuel system on a new towing vessel?

27.345 Is a fire axe required on a new towing vessel? [Reserved]

27.350 What are the requirements for a muster list on a new towing vessel? [Reserved]

27.355 What are the requirements for the instruction, drills, and safety orientations conducted on a new towing vessel?

**Authority:** 46 U.S.C. 3306, 4102 (as amended by Pub. L. 104–324, 110 Stat. 3947); 49 CFR 1.46.

### Subpart A—General Provisions for Fire Protection on Towing Vessels

#### § 27.100 What towing vessels does this part affect?

(a) You must comply with this part if your towing vessel operates on the navigable waters of the United States, unless your towing vessel is described in paragraph (b) of this section.

(b) This part does not apply to you if your towing vessel is—

(1) Used solely within a limited geographic area, such as a fleeting-area for barges or a commercial facility, or used solely for restricted service, such as making up or breaking up larger tows;

(2) Used solely for assistance towing as defined by 46 CFR 10.103;

(3) Used solely for pollution response;

(4) Exempted by the Captain of the Port (COTP);

(5) A public vessel that is owned, or demise chartered, and operated by the United States Government or by a government of a foreign country; and that is not engaged in commercial service; or

(6) A foreign vessel engaged in innocent passage.

(c) If you think your towing vessel should be exempt from these requirements for a specified route, you should submit a written request to the appropriate COTP. The COTP will provide you with a written response granting or denying your request. The COTP will consider the extent to which unsafe conditions would result if your towing vessel lost propulsion because of a fire in the engine room.

#### § 27.101 Definitions.

As used in this part—

Accommodations includes any:

- (1) Messrooms.
- (2) Lounges.
- (3) Sitting areas.
- (4) Recreation rooms.
- (5) Quarters.
- (6) Toilet spaces.
- (7) Shower rooms.
- (8) Galleys.
- (9) Berthing facilities.
- (10) Clothing-changing rooms.

*Engine room* means the enclosed area where any main-propulsion engine is

located. It comprises all deck levels within that area.

*Existing Towing Vessel* means a towing vessel that is not a new towing vessel.

*Fixed fire-extinguishing system* means a carbon-dioxide system that satisfies 46 CFR subpart 76.15; a manually-operated clean-agent system that satisfies NFPA 2001 and is approved by the Commandant; or a manually-operated water-mist system that satisfies NFPA 750 and is approved by the Commandant.

*New Towing Vessel* means a towing vessel the construction of which was contracted for on or after January 18, 2000.

*Operating Station* means the principal steering station on the vessel, from which the vessel is normally navigated.

*Towing Vessel* means a commercial vessel engaged in, or intending to engage in, pulling, pushing, or hauling alongside, or any combination of pulling, pushing, or hauling alongside.

*We* means the United States Coast Guard.

*Working area* means any area on the vessel where the crew could be present while on duty and performing their assigned tasks.

*You* means the owner of a towing vessel, unless otherwise specified.

#### § 27.102 Incorporation by reference.

(a) Certain material is incorporated by reference into this part with the approval of the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in paragraph (b) of this section, the Coast Guard must publish notice of the change in the **Federal Register** and make the material available for inspection. All approved material is so available at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC and at the U.S. Coast Guard, Office of Design and Engineering Standards (G-MSE), 2100 Second Street SW., Washington DC 20593-0001 and is available from the sources indicated in paragraph (b) of this section.

(b) The material approved for incorporation by reference in this part and the sections affected are:

American Boat and Yacht Council (ABYC), 3069 Solomons Island Road, Edgewater, MD 21037-1416	
H-25-1986—Portable Fuel Systems for Flammable Liquids .....	27.340
H-33-1989—Diesel Fuel Systems .....	27.340
National Fire Protection Association (NFPA), 1 Batterymarch Park, Quincy, MA 02269-9101	

302-1989—Pleasure and Commercial Motorcraft .....	27.340
Society of Automotive Engineers (SAE), 400 Commonwealth Drive, Warrendale, PA 15096-0001	
SAE J1475-1984—Hydraulic Hose Fitting for Marine Applications .....	27.340
SAE J1942-1989—Hose and Hose Assemblies for Marine Applications .....	27.340
Subpart B-Fire Protection Measures for Existing Towing Vessels	

#### § 27.200 What are the requirements for an existing towing vessel?

If your existing towing vessel operates as described in § 27.100(a), you must ensure that it complies with §§ 27.205 through 27.245 of this part.

#### § 27.205 What are the requirements for a general alarm on an existing towing vessel?

(a) By October 8, 2001, you must ensure that your vessel is fitted with a general alarm that:

(1) Has a contact maker at the operating station that can notify persons on board in the event of an emergency.

(2) Is capable of notifying persons in any accommodation, work space, and the engine room.

(3) In the engine room and any other area where background noise makes a general alarm hard to hear, has a supplemental flashing red light identified with a sign that reads:

Attention

General Alarm—When Alarm Sounds or Flashes Go to Your Station.

(4) Is tested at least once each week.

(b) You or the operator may use a public-address (PA) system or other means of alerting all persons on your towing vessel instead of a general alarm, if—

(1) The PA system is capable of notifying persons in any accommodation or work space or the engine room;

(2) It is tested at least once each week;

(3) It can be activated from the operating station; and

(4) It complies with paragraph (a)(3) of this section.

#### § 27.210 What are the requirements for fire detection on an existing towing vessel?

By October 8, 2001, a fire-detection system must be installed on your vessel to detect engine-room fires. You must ensure that—

(a) Detectors, control units, and fire alarms are approved under 46 CFR subpart 161.002, or are listed by an independent testing laboratory;

(b) The system is installed, tested, and maintained per the manufacturer's design manual;

(c) The system is arranged and installed so a fire in the engine room automatically sets off visible and audible alarms on a control panel at the operating station;

(d) The control panel includes—

(1) A power-available light;

(2) A visible and audible alarm for each zone;

(3) A means to silence audible alarms while maintaining indication by visible alarm;

(4) A circuit-fault detector test-switch; and

(5) Labels for all switches and indicator lights, indicating their functions.

(e) The system is powered from two sources, switchover from the primary power source to the secondary source being either manual or automatic;

(f) The system is used for no other purpose; and

(g) The system is certified by a Registered Professional Engineer, or by a recognized classification society (under 46 CFR part 8), to meet the criteria listed in paragraphs (a) through (f) of this section.

#### § 27.215 What are the requirements for internal communication on an existing towing vessel?

(a) By October 8, 2001, you must ensure that your vessel is fitted with a communication system between the engine room and operating station that—

(1) Is comprised of either fixed or portable equipment, such as a sound-powered telephone, portable radios, or other reliable method of voice communication, with a main or reserve power supply that is independent of the electrical system on your towing vessel; and

(2) Provides two-way voice communication and calling between the operating station and either—

(i) The engine room; or

(ii) A location immediately adjacent to an exit from the engine room.

(b) Twin-screw vessels with operating station control for both engines are not required to have an internal communication system.

(c) When the operating station control station and the engine room access are within 3 meters (10 feet) of each other and allow unobstructed visual contact between them, direct voice communication is acceptable instead of a communication system.

**§ 27.220** If an existing towing vessel is 24 meters (79 feet) or longer in length, what are the requirements for fire pump, fire main, and fire hose? [Reserved]

**§ 27.221** If an existing towing vessel is less than 24 meters (79 feet) in length, what are the requirements for fire pump and fire hose? [Reserved]

**§ 27.225** What type of portable fire-extinguisher is required on an existing towing vessel? [Reserved]

**§ 27.230** What are the requirements for a fuel shutoff on an existing towing vessel?

By October 8, 2001, you must have a remote fuel shutoff that meets § 27.340(f) installed on your vessel.

**§ 27.235** Is a fire axe required on an existing towing vessel? [Reserved]

**§ 27.240** What are the requirements for a muster list on an existing towing vessel? [Reserved]

**§ 27.245** What are the crew-training requirements for fire emergencies on an existing towing vessel?

By January 19, 2000, you must ensure that drills, instruction and safety orientations that satisfy § 27.355 are performed on your vessel.

#### **Subpart C—Fire Protection Measures for New Towing Vessels**

**§ 27.300** What are the requirements for a new towing vessel?

If your new towing vessel operates as described in § 27.100(a), then you must ensure that it complies with §§ 27.305 through 27.355 of this part.

**§ 27.305** What are the requirements for a general alarm on a new towing vessel?

(a) You must ensure that your vessel is fitted with a general alarm system that:

- (1) Has a contact maker at the operating station that can notify persons on board in the event of an emergency.
- (2) Is capable of notifying persons in any accommodation, work space, and the engine room.

(3) In the engine room and any other area where background noise makes a general alarm hard to hear, has a supplemental flashing red light identified with a sign that reads:

Attention

General Alarm—When Alarm Sounds or Flashes Go to Your Station.

- (4) Is tested at least once each week.
- (b) You or the operator may use a PA system or other means of alerting all persons on your towing vessel instead of a general alarm, if—

(1) The PA system is capable of notifying persons in any accommodation or work space or the engine room;

- (2) It is tested at least once each week;
- (3) It can be activated from the operating station; and
- (4) It complies with paragraph (a)(3) of this section.

**§ 27.310** What are the requirements for fire detection on a new towing vessel?

A fire-detection system must be installed on your vessel to detect engine room fires. You must ensure that—

- (a) Detectors, control units, and fire alarms are approved under 46 CFR subpart 161.002, or are listed by an independent testing laboratory;
- (b) The system is installed, tested, and maintained per the manufacturer's design manual;
- (c) The system is arranged and installed so a fire in the engine room automatically sets off visible and audible alarms on a control panel at the operating station;
- (d) The control panel includes—
  - (1) A power-available light;
  - (2) A visible and audible alarm for each zone;
  - (3) A means to silence audible alarms while maintaining indication by visible alarm;
  - (4) A circuit-fault detector test-switch; and

(5) Labels for all switches and indicator lights, indicating their functions.

(e) The system is powered from two sources, switchover from the primary power source to the secondary source being either manual or automatic;

(f) The system is used for no other purpose; and

(g) The system is certified by a Registered Professional Engineer, or by a recognized classification society (under 46 CFR part 8), to meet the criteria listed in paragraphs (a) through (f) of this section.

**§ 27.315** What are the requirements for internal communication on a new towing vessel?

(a) You must ensure that your vessel has a communication system between the engine room and operating station that—

- (1) Is comprised of either fixed or portable equipment, such as a sound-powered telephone, portable radios, or other reliable voice communication method, with a main or reserve power supply that is independent of the electrical system on your towing vessel; and
- (2) Provides two-way calling and voice communication between the operating station and either—

- (i) The engine room; or
- (ii) A location immediately adjacent to an exit from the engine room.

(b) Twin-screw vessels with operating station control for both engines are not required to have an internal communication system.

(c) When the operating station control station and the engine room access are within 3 meters (10 feet) of each other and allow unobstructed visual contact between them, direct voice communication is acceptable instead of a communication system.

**§ 27.320** If a new towing vessel is 24 meters (79 feet) or longer in length, what are the requirements for fire pump, fire main, and fire hose? [Reserved]

**§ 27.321** If a new towing vessel is less than 24 meters (79 feet) in length, what are the requirements for fire pump and fire hose? [Reserved]

**§ 27.325** If a new towing vessel is 24 meters (79 feet) or longer in length, what type of fire-extinguishing equipment must it carry? [Reserved]

**§ 27.326** If a new towing vessel is less than 24 meters (79 feet) in length, what type of fire-extinguishing equipment must it carry? [Reserved]

**§ 27.340** What are the requirements for a fuel system on a new towing vessel?

(a) You must ensure that, except for the components of an outboard engine or of a portable bilge pump or fire pump, each fuel system installed on board the vessel meets the requirements of this section.

(b) *Portable fuel systems.* The vessel must not incorporate or carry portable fuel systems, including portable tanks and related fuel lines and accessories, except when used for outboard engines or when permanently attached to portable equipment such as portable bilge or fire pumps. The design, construction, and stowage of portable tanks and related fuel lines and accessories must meet the requirements of ABYC H-25 (incorporated by reference at § 27.102(b)).

(c) *Fuel restrictions.* Neither you nor the operator may use fuel other than bunker C or diesel, except for outboard engines, or where otherwise accepted by the Commandant (G-MSE). An installation that uses bunker C must comply with the requirements of subchapter F of this chapter.

(d) *Vent pipes for integral fuel tanks.* Each integral fuel tank must meet the requirements of this paragraph as follows:

- (1) Each fuel tank must have a vent system that connects to the highest point of the tank and discharges on a weather deck through a bend of 3.14 radians (180 degrees) fitted with a 30-by-30 mesh corrosion-resistant flame screen;

(2) The net cross-sectional area of the vent pipe for the tank must be—

- (i) Not less than 312.3 square millimeters (0.484 square inches), or
- (ii) Not less than that of the fill pipe when provision is made to fill a tank under pressure.

(e) *Fuel piping.* Except as permitted in paragraphs (e)(1) and (2) of this section, each fuel line must be seamless and made of steel, annealed copper, nickel-copper, or copper-nickel. Each fuel line must have a wall thickness of not less than 0.9 millimeters (0.035 inch) except that—

(1) Aluminum piping is acceptable on an aluminum-hull vessel if it is installed outside the engine room and is at least Schedule 80 in thickness; and

(2) Nonmetallic flexible hose is acceptable if it—

- (i) Is used in lengths of not more than 0.76 meters (30 inches);
- (ii) Is visible and easily accessible;
- (iii) Does not penetrate a watertight bulkhead;
- (iv) Is fabricated with an inner tube and a cover of synthetic rubber or other suitable material reinforced with wire braid; and
- (v) Either—

(A) If it is designed for use with compression fittings, is fitted with suitable, corrosion-resistant, compression fittings, or fittings compliant with SAE J1475 (incorporated by reference at § 27.102(b)); or

(B) If it is designed for use with clamps, is installed with two clamps at each end of the hose. Clamps must not rely on spring tension and must be installed beyond the bead or flare or over the serrations of the mating spud, pipe, or hose fitting. Installations complying with SAE J1475 are also acceptable.

(3) Nonmetallic flexible hose is also acceptable if it complies with SAE J1942 (incorporated by reference at § 27.102(b)).

(f) A fuel line subject to internal head pressure from fuel in the tank must be fitted with a positive shutoff valve, located at the tank and operable from a safe place outside the space in which the valve is located.

(g) A new towing vessel less than 24 meters (79 feet) in length may comply with any of the following standards for fuel systems instead of the requirements of paragraph (e) of this section:

(1) ABYC H-33 (incorporated by reference at § 27.102(b)).

(2) Chapter 5 of NFPA 302 (incorporated by reference at § 27.102(b)).

(3) 33 CFR Chapter I, subchapter S (Boating Safety).

**§ 27.345 Is a fire axe required on a new towing vessel? [Reserved]**

**§ 27.350 What are the requirements for a muster list on a new towing vessel? [Reserved]**

**§ 27.355 What are the requirements for instruction, drills, and safety orientations conducted on a new towing vessel?**

(a) *Drills and instruction.* The master or person in charge of a vessel must ensure that each crewmember participates in drills and receives instruction at least once each month. The instruction may coincide with the drills, but need not. It must ensure that all crewmembers are familiar with their fire-fighting duties, and specifically, the following contingencies:

(1) Fighting a fire in the engine room and other locations on board the vessel, including how to—

(i) Operate all of the fire-extinguishing equipment on board the vessel;

(ii) Stop the mechanical ventilation system for the engine room if provided, and effectively seal all natural openings to the space to prevent leakage of the extinguishing agent; and

(iii) Operate the fuel shutoff for the engine room.

(2) Activating the general alarm.

(3) Reporting inoperative alarm systems and fire-detection systems.

(4) Putting on a fireman's outfit and a self-contained breathing apparatus, if the vessel is so equipped.

(b) *Alternative form of instruction.* The master or person in charge of a vessel may substitute, for the requirement of instruction in paragraph (a) of this section, the viewing of videotapes concerning at least the contingencies listed in paragraph (a), followed by a discussion led by someone familiar with these contingencies. This instruction may occur either on or off the vessel.

(c) *Participation in drills.* Drills must take place on board the vessel, as if there were an actual emergency. They must include—

(1) Participation by all crewmembers;

(2) Breaking out and using emergency equipment;

(3) Testing of all alarm and detection systems; and

(4) At least one person putting on protective clothing, if the vessel is so equipped.

(d) *Safety orientation.* The master or person in charge of a vessel must ensure that each crewmember who has not received the instruction and has not participated in the drills required by paragraph (a) of this section receives a safety orientation before the vessel gets underway.

(e) The safety orientation must cover the specific contingencies listed in paragraph (a) of this section.

Dated: October 4, 1999.

**J.C. Card,**

*Vice Admiral, U.S. Coast Guard, Acting Commandant*

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 0

[GC Docket No. 96-55; FCC 98-184]

#### Examination of Current Policy Concerning the Treatment of Confidential Information Submitted to the Commission

**AGENCY:** Federal Communications Commission.

**ACTION:** Announcement of OMB approval of information collection requirements.

**SUMMARY:** This document announces the approval of the two information collections contained in the Commission's decision published August 18, 1998. That decision discussed policies and amended the rules concerning the treatment of confidential information submitted to the Commission, including the showing to be made in a request for confidential treatment of information, and record keeping requirements for the Model Protective Order.

**DATES:** The recordkeeping information collection requirements published at 63 FR 44161 (August 18, 1998) was approved by OMB on May 17, 1999.

**FOR FURTHER INFORMATION CONTACT:** Laurence H. Schecker, Office of General Counsel, (202) 418-1720.

**SUPPLEMENTARY INFORMATION:** On November 11, 1998, the Office of Management and Budget (OMB) granted emergency approval for the amendment of 47 CFR 0.459(b) and the record keeping requirement contained in the Model Protective Order pursuant to OMB Control No. 3060-0682. OMB approved these two information collections on May 17, 1999, also pursuant to OMB Control No. 3060-0682.

Federal Communications Commission.

**Magalie Roman Salas,**  
*Secretary.*

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