

*Executive Order 13211—Regulations That Significantly Affect the Supply, Distribution, or Use of Energy*

On May 18, 2001, the President issued Executive Order 13211 which requires agencies to prepare a Statement of Energy Effects for a rule that is (1) Considered significant under Executive Order 12866, and (2) likely to have a significant adverse effect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866 and is not expected to have a significant adverse effect on the supply, distribution, or use of energy, a Statement of Energy Effects is not required.

*National Environmental Policy Act*

This rule does not require an environmental impact statement because section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

*Paperwork Reduction Act*

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

*Regulatory Flexibility Act*

The Department of the Interior certifies that this rule will not have a

significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

*Small Business Regulatory Enforcement Fairness Act*

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule: (a) Does not have an annual effect on the economy of \$100 million; (b) will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and (c) does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. This determination is based upon the fact that the State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal

regulation was not considered a major rule.

*Unfunded Mandates*

This rule will not impose an unfunded mandate on State, local, or tribal governments or the private sector of \$100 million or more in any given year. This determination is based upon the fact that the State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation did not impose an unfunded mandate.

**List of Subjects in 30 CFR Part 920**

Intergovernmental relations, Surface mining, Underground mining.

Dated: March 20, 2003.

**Brent Wahlquist,**

*Regional Director, Appalachian Regional Coordinating Center.*

■ For the reasons set out in the preamble, 30 CFR part 920 is amended as set forth below:

**PART 920—MARYLAND**

■ 1. The authority citation for part 920 continues to read as follows:

**Authority:** 30 U.S.C. 1201 *et seq.*

■ 2. Section 920.15 is amended in the table by adding a new entry in chronological order by April 29, 2003 to read as follows:

**§ 920.15 Approval of Maryland regulatory program amendments.**

Original amendment submission date	Date of final publication	Citation/description
October 22, 2002	April 29, 2003	COMAR 26.20.01.02 (51-1), (81-1); 26.20.02.15B,C,D; 26.20.02.16E; 26.20.13.05A,B,C,D; 26.20.13.07A,B,C,D,E; 26.20.13.09D; 26.20.14.13D.

[FR Doc. 03-10532 Filed 4-28-03; 8:45 am]  
BILLING CODE 4310-05-P

**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 164**

**46 CFR Parts 25 and 27**

[USCG-2000-6931]

RIN 1625-AA60 [Formerly RIN 2115-AF53]

**Fire-Suppression Systems and Voyage Planning for Towing Vessels**

**AGENCY:** Coast Guard, DHS.

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

**SUMMARY:** Based on public involvement and comments, this interim rule modifies and implements both the requirements for the installation of fire-suppression systems in the engine rooms of towing vessels and the requirements for voyage planning proposed together in the **Federal Register** on November 8, 2000. As modified, this rule aims at reducing the number of uncontrolled engine-room fires and other mishaps on towing vessels. It should save lives, reduce property damage, and reduce the

associated threats to maritime commerce and the environment.

**DATES:** This interim rule is effective August 27, 2003.

The incorporation by reference of certain publications in this rule is approved by the Director of the Federal Register as of August 27, 2003.

Comments and related material must reach the Docket Management Facility on or before July 28, 2003.

**ADDRESSES:** To make sure that your comments and related material do not enter the docket more than once, please submit them (referred to USCG-2000-6931) by only one of the following means:

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

(2) By 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 the 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 notice. Comments and material received from the public, as well as documents mentioned in this notice as being available in the docket, 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, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at <http://dms.dot.gov/>.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call Randall Eberly, P.E., Project Manager, at 202-267-1861. If you have questions on viewing or submitting material to the docket, call Dorothy Beard, Chief, Dockets, Department of Transportation, telephone 202-366-5149.

#### **SUPPLEMENTARY INFORMATION:**

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

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify this rulemaking by docket number (USCG-2000-6931), indicate the specific section of this document to which each comment applies, and give the reason for each

comment. You may submit your comments and material by mail, 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 means. If you submit them by mail or 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 them.

##### **Public Meeting**

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

In 1996, as a result of the tugboat SCANDIA's catching fire and causing the spillage of about 850,000 gallons of oil from the barge NORTH CAPE, which it was towing, Congress amended (in Pub. L. 104-324) section 902 of the Coast Guard Authorization Act (codified as 46 U.S.C. 3719) to direct the Secretary of Transportation to prescribe rules for fire-suppression equipment on towing vessels (See *Statutory Mandate* for a statement of current authority). Subsequently, on October 6, 1997, we published a notice of proposed rulemaking (NPRM) in the **Federal Register** entitled "Towing Vessel Safety" (62 FR 52057). The NPRM proposed fire-suppression measures on towing vessels, but did not make the installation of fixed fire-suppression systems mandatory on existing vessels, because their engine rooms were typically not designed as enclosed spaces. Instead, it proposed a combination of fire-detection systems, semi-portable fire extinguishers, training of crews, and fixed or portable fire pumps. It also solicited public comments on principles of voyage planning for the development of a future Navigation and Vessel Inspection Circular (NVIC).

A number of comments submitted in response to the NPRM criticized the proposed fire-safety measures, saying they failed to meet the intent of the Authorization Act because they did not entail total-flooding fixed fire-

suppression systems on all vessels, or, at least, not on all towing vessels used to transport oil and other hazardous substances. Many of the comments also held our logic of proposing alternative measures on existing vessels flawed, because there are specially designed fixed fire-suppression systems available for engine rooms that are not enclosed. Some of them also maintained that the proposed measures were inadequate because they did not consider vessels' characteristics, their methods of operation, or their nature of service, nor did they differentiate between ocean-going tugboats and inland towboats. Yet another group of comments disputed entirely the need for supplemental fire-suppression equipment, citing the established safety record of the towing industry, and pointing out that the SCANDIA incident was an isolated occurrence.

While most of the comments disagreed with our proposals for fire-suppression equipment, most agreed with our proposals for added safety measures, such as communication systems and fire-detection systems. We therefore divided the fire-protection issues into two separate rulemakings. The non-controversial requirements we addressed in an interim rule entitled: "Fire Protection Measures for Towing Vessels" (USCG-1998-4445), which was published on October 19, 1999 (64 FR 56257). That rule implemented requirements for general-alarm systems, internal-communication systems, fire-detection systems, remote fuel-shut-off valves, and monthly drills on all non-exempt towing vessels. Those requirements ultimately appeared in a final rule on August 28, 2000 (65 FR 52043). That rule involved some minor changes based on comments received on the docket, but did not address requirements for fire-suppression systems, either manual or fixed.

We began a separate rulemaking to address the controversial requirements for fire-suppression systems. On November 8, 2000, we published a supplemental notice of proposed rulemaking (SNPRM) entitled: "Fire-Suppression Systems and Voyage Planning for Towing Vessels" (USCG-2000-6931) (65 FR 66941). The SNPRM included voyage planning in response to public comments made on the docket for the prior proposal. We received cogent comments doubting whether voyage planning was amenable to treatment in a NVIC. We therefore proposed rules that would require completion of a voyage-planning analysis before each trip.

As announced in a notice of meeting (65 FR 82030) on February 8, 2001, a

public meeting occurred during the comment period in Washington, DC. At the meeting, the Chairman of the Towing Safety Advisory Committee (TSAC) advised us that the comment period was scheduled to close before the regularly scheduled meeting of the TSAC on March 14–15, 2001, and that, consequently, we would not have the benefit of the members' input. So we published a notice (66 FR 11241) extending the comment period until May 8, 2001, to allow the members more time for comments. During the extended comment period, we received requests from several operators of towing vessels on the Western Rivers to hold another public meeting, at a place convenient to the inland waterways. We honored this request by, again, publishing a notice (66 FR 36224) extending the comment period, and announcing that we would hold a second meeting, in Huntington, West Virginia, on August 15, 2001.

This interim rule changes the requirements proposed in the SNPRM in response to the comments received, both on the docket and at the two public meetings.

#### Statutory Mandate

As we stated in the SNPRM, section 902 of the Authorization Act of 1996 directs that the Coast Guard consider requiring the installation, maintenance, and use of fire-suppression systems or other such measures on towing vessels. It further directs that the Coast Guard develop rules for the installation "of a fire-suppression system or other measures to provide adequate assurance that a fire on board a towing vessel, that is towing a non-self-propelled tank vessel, can be suppressed under reasonably foreseeable circumstances."

On March 1, 2003, by authority of subsection 103(c) of the Homeland Security Act of 2002 (Pub. L. 107–296), the Coast Guard shifted from the Department of Transportation to the Department of Homeland Security. The Secretary of Homeland Security supports this rulemaking as an important initiative.

#### Discussion of Interim Rule

##### *This Rule Would Apply to Most Towing Vessels*

Like the SNPRM, this interim rule prescribes that most towing vessels must—

- Be fitted with fire-suppression equipment in their engine rooms; and
- Not proceed on a trip or voyage before completing a plan for the trip or voyage.

Unlike the SNPRM, however, this rule prescribes separate requirements for (1)

vessels in inland service and (2) those in ocean or coastal service.

Any towing vessel that engages only in assistance towing, emergency or pollution responses, fleeting duties in a limited geographical area, or service on a certain limited route (specified here), is exempt from the measures in this interim rule. The rule offers new definitions for these terms to help the public better understand which vessels are exempt. It applies to all other towing vessels (unless exempted by the Captain of the Port), not just those over a certain length or those that tow non-self-propelled tank vessels. Owners that need to install fire-suppression equipment on their towing vessels will have until two years after the effective date of this rule to comply.

#### **Requirement for a Fixed Fire-Suppression System; Why We Now Consider Manual Fire-Fighting Equipment Adequate for Vessels in Inland Service**

In the NPRM of 1997, we proposed for existing vessels a combination of manual fire-fighting measures instead of fixed fire-suppression systems. We were concerned that gaseous fire-suppression systems would not be effective on existing vessels because those vessels' engine rooms typically have windows, doors, and other openings that could allow leakage of the fire-suppression agent. Fixed total-flooding fire-suppression systems cannot extinguish a fire, unless an adequate concentration of an agent enters the fire area and stays for a minimum "soak time." We were also concerned that the agent might leak into occupied areas, threatening the health of the crewmembers. Carbon dioxide was the only agent for fixed systems approved and available when we published the NPRM. Carbon dioxide is not intended for use in occupied areas, and areas protected by it must be evacuated before it is discharged. If inadvertently released, it could cause serious injury or death to exposed personnel.

Between the publication of the NPRM and the preparation of the SNPRM, we approved three new agents for fixed fire-suppression systems that are not harmful to people or the environment, if inadvertently released. Because these new agents were available, we decided that fighting fires with manual equipment would pose unnecessary risk to the crew and yet be less effective than using fixed fire-suppression systems. Consequently, the SNPRM reversed our original proposal (that in the NPRM) and instead would have required all non-exempt vessels to install such systems, with the option of using

several different agents that did not carry the level of risk associated with carbon dioxide. We felt that this would allow operators of towing vessels the option of selecting some type of fixed fire-suppression system that would be effective on their vessels regardless of the configuration of the engine room.

The public response to our new proposal, in the SNPRM, was overwhelmingly negative. Most of the comments opposed requiring fixed fire-suppression systems on towing vessels in inland service, and suggested reverting to the manual fire-fighting measures proposed in the NPRM of 1997, or suggested a similar level of protection. The reasons for this strong opposition are best summarized by the TSAC:

- Fixed fire-suppression systems would not be effective in existing towing vessels, because the engine rooms are not airtight.
- Existing vessels' engine rooms cannot be made airtight without structural modifications that would typically cost more than the fixed systems themselves. Therefore, if such a system is to be installed, it must be designed to compensate for the unsealed openings; this would require a major increase in the quantity of extinguishing agent.
- Existing towing vessels lack sufficient space for banks of extinguishing-agent cylinders, considering the amount of agent that would likely be needed to compensate for unsealed openings.
- The Authorization Act of 1996 does not direct the Coast Guard to require only fixed systems. It allows the Coast Guard to require "a fire suppression system *or other measures* to provide adequate assurance that fires onboard towing vessels can be suppressed under reasonably foreseeable circumstances." (Emphasis added) The SNPRM does not consider other measures.
- The SNPRM underestimates the true costs to install fixed systems on all vessels and does not demonstrate that the limited benefits in prospect would outweigh the substantial costs of implementing the rule.
- The Coast Guard's own data on casualties do not support a need for fixed systems. Of the 105 engine-room fires reported, over 80 percent were extinguished by the crew using portable extinguishers or fire hoses, with only 7 injuries. About 60 percent of the fires resulted in damages assessed at \$10,000 or less, and less than 5 percent of them resulted in pollution.
- A fixed system would not have prevented the spill from the barge NORTH CAPE. In fact, it would have

stopped the SCANDIA's engines and meant a long time for the crew to re-introduce fresh air into the engine room and then make the necessary repairs to restart the engines. During this time without propulsion or steering, the grounding would still have occurred.

- Towing vessels on the inland rivers must rely on their engines and steering systems to navigate in narrow channels and near locks and dams, in strong currents. If a failure of propulsion or steering occurs, there is little time to prevent a vessel from going aground or striking another vessel or a fixed structure. A requirement of fixed systems, along with engine shutdown, instead of enhanced manual equipment, would increase overall risk to safety.

The public also challenged our views that manual fire-fighting posed an unacceptable risk to the crew, and that equipment for it was ineffective for controlling engine-room fires. The TSAC performed an independent analysis of our data on casualties, which showed, as we noted, that over 80 percent of the reported fires on inland vessels had been extinguished by the crewmembers with only 7 reported injuries. Further investigation revealed that most of the 7 injuries were due to broken lines' spraying fuel or to other conditions in the engine room and were not attributable to fire-fighting efforts. Further supporting this argument, many comments agreed that the typical practice on inland towing vessels, in response to a fire, is to attempt first-aid fire-fighting using portable extinguishers or fire hoses. If this fails to contain the fire, the crew can readily and safely abandon ship to the tow or the riverbank. Accordingly, the comments argue that we should require only portable extinguishers or fire hoses because the situation on inland vessels is not the same as that on vessels operating in open water, where wind and sea can make conditions perilous.

While we agree that it may be possible to abandon ship to the tow or the riverbank in some cases, one cannot assume that one can safely make it to the riverbank (or the tow) in all emergency circumstances. However, after considering all of the comments along with the fire-related casualty statistics available for towing vessels, we have decided to adopt the fire-fighting philosophy of our original proposal, by accepting manual fire-fighting equipment as an alternative to fixed fire-suppression systems on towing vessels operating exclusively on inland waters. However, we will still require the installation of fixed fire-suppression systems in the engine rooms of towing vessels whose

construction is contracted for on or after August 27, 2003 and that will operate in ocean or coastal waters.

#### **How Does This Rule Differ From the NPRM of 1997?**

The NPRM of 1997 proposed different kinds of manual fire-fighting equipment, varying with the overall lengths of the towing vessels. Larger vessels would have had to carry equipment meeting a higher standard. Vessels of less than 24 m (79 feet) in length would have had to carry limited-capacity portable fire pumps with fire hoses 16 mm ( $\frac{5}{8}$  inch) in diameter and B-III semi-portable fire extinguishers. Larger vessels, of 24 m (79 feet) in length or longer, again, would have had to carry fixed fire pumps with capacity of 300 liters per minute (lpm or 80 gpm) and fire mains with fire hoses 40 mm (1½ inch) in diameter, and B-V semi-portable fire extinguishers.

This interim rule does not require different types or amounts of fire-suppression equipment, varying with the lengths of the vessels. Instead, it requires a minimum fire-suppression capability, which follows from the requirements in the NPRM for all non-exempt vessels greater than 24 m (79 feet). The fire pump may be either fixed or portable, but a minimum capacity of 300 lpm (80 gpm) must be available in either case. Also, the smallest fire hose in any case must be at least 40 mm (1½ inch) in diameter. For a portable pump, the way of checking discharge pressure is by using a pressure gage at the pump outlet. Vessels that use portable pumps will not have fire-main piping connected to them, so the rule does not require the use of a pitot tube at the nozzle to check for excessive friction loss in the system. The rule does require, for any non-exempt vessel, a B-V semi-portable fire extinguisher to further ensure adequate fire-fighting capability.

With respect to voyage planning, the most significant difference between the proposal in the SNPRM and the requirements in this interim rule is the applicability. In the SNPRM, we proposed voyage planning for all towing vessels. While we maintain that all these vessels should do voyage planning, we will now require it only for those operating in unprotected waters, beyond the baseline of the territorial sea.

Because pivotal dates indicated in the SNPRM have passed, we no longer refer to towing vessels as "new" or "existing." Where it does remain necessary for us to distinguish by age, so that we do not add to the requirements for vessels beyond those

proposed in the SNPRM, we have simply stated the date (cutoff or appropriate) that determines applicability of a particular requirement. Of course, the elimination of the distinction between "new" and "existing" also entailed the elimination of the need for treating them in separate sections of the rules; to do so now would create a number of duplicate sections in the rules. Consequently, we have removed sections that would have been duplicate.

#### **Discussion of Comments and Changes**

The docket received a total of 67 letters containing 223 comments on the SNPRM. Of the comments, 144 dealt with fire suppression while 56 dealt with voyage planning. We also received comments in the form of remarks at the public meetings held in Washington, DC (on February 8, 2001), and in Huntington, West Virginia (on August 15, 2001). The spoken comments at the public meetings are consistent with, and, in many cases, duplicates of, the written comments to the docket. Those at Huntington criticized the proposed rulemaking. More importantly, however, they offered reasonable alternatives, many of which we have incorporated within this interim rule. The audiotapes of the two meetings are available for listening at Coast Guard Headquarters (G-LRA) in Washington, DC. The following paragraphs contain summaries of the comments (and explanations of any changes made by this rule to the SNPRM) under the category-headings that follow:

#### **Requirement for a Fixed Fire-Extinguishing System**

A few comments did support our proposal to require fixed fire-extinguishing systems for the protection of towing vessels' engine rooms. Yet most opposed it. These offered a variety of reasons against it. The following paragraphs summarize the reasons and provide the Coast Guard's view on each issue. We also note the extent to which we accepted each comment in the preparation of this interim rule.

Many comments expressed concern over the potential hazards to personnel if carbon dioxide were used as the extinguishing agent. They noted that the concentration of carbon dioxide needed to extinguish fires is above the level safe for personnel. The Coast Guard does not agree that the use of carbon dioxide, in this application, poses an unacceptable risk. Approved carbon-dioxide systems must be fitted with pre-discharge alarms and devices that delay the discharge until personnel have been alerted to vacate the space. This interim rule has

not changed in response to those comments.

A number of comments expressed concern about the lack of available space to house equipment for fixed fire-extinguishing systems on existing vessels. The Coast Guard agrees that this view may have merit due to the many possible towing-vessel designs, and has dealt with it in the changes that exempt from the requirement of fixed systems all inland towing vessels, and allowed a semi-portable (fire-extinguishing equipment) alternative on towing vessels in ocean or coastal service whose construction was contracted for before August 27, 2003.

Other comments stated that existing engine rooms are typically not airtight, and that doors and windows must be open during warm summer months to ventilate them. They surmise that these features would not allow the effective use of total-flooding gaseous fire-extinguishing agents. The Coast Guard disagrees that engine rooms must be completely airtight for the effective use of such agents. Larger amounts of agent can compensate for unsealed openings. Still, as we previously acknowledged, many existing towboats have limited space available for fixed systems. If larger amounts of agent became necessary to compensate for unsealed openings, the lack of space could preclude the use of such systems. This criticism counted in the preparation of this interim rule.

Several comments noted that the discharge of a fixed fire-extinguishing system would cause a vessel's engines to shut down, thereby creating a navigational hazard. The Coast Guard recognizes that automatically discharged carbon dioxide (and some other agents) from fixed systems may starve main engines of oxygen, but typical manually-discharged fixed-systems give the operator discretion to determine whether potential navigational hazards represent greater immediate risks than fires in main-engine rooms. The Coast Guard agrees that a vessel's engines may shut down if the air intakes are located inside the engine room, unless the intakes draw air from outside the engine room. Modifications to provide external intakes would require structural changes that might not be feasible, in some cases, again because of the limited space available on some existing towboats. This argument is among the reasons that led this interim rule to allow (semi-portable and) portable equipment as an alternative on existing vessels.

### Need for the Rule

Many comments argued that the analysis of casualties presented in the SNPRM did not demonstrate a sufficient risk of fire to warrant fixed fire-extinguishing systems. In the years 1992–1996, there were only 105 reported engine-room fires, with only 7 injuries and no fatalities. In those years, moreover, 80 percent of the reported fires were extinguished without the use of fixed systems. It is reasonable to expect that the incidence and consequences of future casualties would generally follow this trend. This has influenced our decision to revert to the use of semi-portable and portable fire-fighting equipment on certain categories of towing vessels.

### Economic Analysis

Many comments disagreed with our economic analysis, of the costs and benefits associated with this rulemaking. Several suggested that the costs we listed in the SNPRM were 20 to 30 percent lower than would be necessary to retrofit a fixed fire-extinguishing system into an existing engine-room. We do not fully agree with these. The cost estimates that we used, for the system hardware and installation, came from actual quotes provided by marine fire-protection equipment distributors. These costs were confirmed through several sources. The unknown factor in them, however, is the extent of modifications necessary on existing towboats. In some cases, only minimal modifications would be necessary to ensure that the systems would function properly. In other cases (for adequate closure of spaces), steel bulkheads, ductwork, self-closing doors, and similar measures might be necessary. The domestic fleet of towboats consists of several thousand boats of different designs and configurations that may entail a variety of modifications to satisfy the rule. Because of this variety, it is only possible to estimate the costs on a generic basis. We agree that, in some cases, the costs could be significant and have considered this as a factor in our re-evaluation of the rulemaking.

### Applicability

A number of comments questioned the clarity of the exemptions listed in § 27.100. In the SNPRM, we proposed that vessels used in limited geographic areas, as for fleeting duties, would receive appropriate exemptions. But the comments pointed out that, as written, these exemptions would reach most inland towboats. They argued that these boats typically operate within limited

geographic areas on given rivers, and would, therefore, qualify for the exemptions. These areas were not what we intended. The “limited geographic areas” that we intended were very narrow—for example, within the same harbor or within the company's fleeting yard. In response to these comments, we have defined more precisely, in § 27.101, on what “limited geographic areas” exemptions will apply.

### Use of Gasoline-Powered Pumps

A number of comments expressed concerns that the SNPRM would prohibit the use of gasoline-powered pumps onboard towboats. It would not. The only restrictions on fuel contemplated are those in § 27.211(b), which apply only to vessels whose construction was contracted for on or after January 18, 2000. This interim rule allows the use of gasoline-powered pumps with integrally mounted fuel tanks.

### General Comments Concerning Fire-Suppression Requirements

One comment urged the Coast Guard to consider requirements for enhanced staffing levels and for limits on crews' fatigue in light of their causal relationship to marine accidents, instead of requirements for hardware such as fixed fire-extinguishing systems. Crews' fatigue is a separate issue and is not the subject of this rulemaking.

Many comments expressed frustration that the Coast Guard did not recognize industry's self-regulation through the Responsible Carrier Program of the American Waterways Operators (AWO). The Coast Guard is keenly aware of this program and of the increased safety benefits that it provides; but, unfortunately, not all operators of towboats participate in it. Because of this we must require fire-safety measures for engine rooms.

Some comments requested that vessels engaged in either emergency response or harbor assistance be exempt from the proposed requirements. We agree with them and have changed the interim rule accordingly.

Several comments argued that we should not require qualified fire-fighting training and personal protective gear for crewmembers. The costs associated with maintaining the correct gear in the sizes needed for each crewmember would be prohibitive, they stated, considering that the crewmembers may routinely transfer between vessels. Many inland-towing companies, they further stated, have adopted corporate practices that restrict their personnel to performing only limited “first-aid” fire-fighting before calling for outside help or abandoning

the vessel. The companies reason that any further fire-fighting by these personnel could result in unacceptable risks to the personnel. Our analysis of casualties indicates that all fires put out by crewmembers were put out by crewmembers without benefit of extensive training or protective clothing. We therefore have considered the costs and benefits associated with such training and clothing, and we have decided not to require these in this interim rule.

Several other comments stated that, in their opinion, portable equipment would be adequate to control engine-room fires because fire-detection systems are now mandatory on all non-exempt towing vessels under the new rules for fire-protection measures effective October 8, 2001 (65 FR 52043). We agree that those systems will provide early warning of potential fires and, in most cases, will allow crewmembers to act before the fires grow to unmanageable sizes. Early detection capability was a factor in our decision to allow the use of portable fire-fighting equipment in this interim rule.

**Voyage Planning**

Most comments on voyage planning opposed requiring it for towing vessels

on Western Rivers and other inland waters. The Coast Guard agrees, requiring it only for these vessels (each with at least one barge in tow) when they operate beyond the baseline of the territorial sea.

Many suggested we define the term “voyage.” For the purposes of this rule, a voyage (or trip) is a movement of a towing vessel that is under way, with at least part of the transit being seaward of the territorial-sea baseline.

One comment suggested specific changes, such as development of guidelines for voyage planning with detailed information on its four components: appraisal, planning, execution, and monitoring. Another suggested that proper planning encompass a number of items to protect endangered species and critical habitats. The Coast Guard agrees in part. We will further evaluate the need for detailed instructions regarding voyage planning and will issue guidelines to the industry if they are deemed necessary.

**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 Homeland Security (DHS).

A draft Regulatory Evaluation under the regulatory policies and procedures of DHS is available in the docket for inspection or copying where indicated under **ADDRESSES**. A summary of the Evaluation follows:

We expect measures published in this interim rule to yield a benefit-to-cost ratio of about 1.6-to-1. Estimated benefits, in the form of avoided injuries and avoided damage to vessels and property, are around \$29.5 million. In addition, the measures are estimated to prevent 14,139 barrels of oil pollution. The estimated total present-value cost of this rulemaking is \$18.6 million. The table following this paragraph illustrates the calculation of total benefits and costs and also breaks out the benefits and costs of the fire-suppression and voyage-planning components. The period of analysis is from 2003 until 2015. A majority of the costs are incurred in the first two years of the analysis period, as this is when industry will incur the capital costs of installing manual fire-fighting equipment.

**TOTAL COSTS, BENEFITS, AND BENEFIT/COST RATIOS OF REQUIREMENTS FOR FIRE-SUPPRESSION AND VOYAGE PLANNING (2003–2015)**

Present-Value Total Cost of Fire-Suppression .....	\$16,975,875
Present-Value Total Benefit of Fire-Suppression .....	\$24,325,311
Barrels of Pollution Avoided .....	9,032
Benefit/Cost Ratio .....	1.43:1
Present-Value Total Cost of Voyage Planning .....	\$1,633,346
Present-Value Total Benefit of Voyage Planning .....	\$5,104,360
Barrels of Pollution Avoided .....	5,107
Benefit/Cost Ratio .....	3.13:1
Present-Value Total Cost of Rule .....	\$18,609,221
Present-Value Total Benefit of Rule .....	\$29,429,671
Barrels of Pollution Avoided by Rule .....	14,139
Benefit/Cost Ratio of Rule .....	1.58:1

**Note:** Benefit/Cost ratio is present-value total benefit divided by the present-value total cost.

**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.

The requirements contained in this interim rule will have much less of an impact on small entities than those contained in the SNPRM published November 8, 2000. There, we indicated that the requirements contained in the SNPRM might constitute a significant impact on a substantial number of small entities. The total present-value cost of the requirements contained in the SNPRM was around \$116 million.

We estimate that this interim rule will cost industry \$18.6 million. About 1,200 companies are affected by this rule; of these, about 1,000 are considered small

entities. The average small business, in our analysis, owns two affected towing vessels and has average annual revenues of \$1.1 million. Consequently, an average small business will spend around \$12,000 over the 13 years covered by our analysis to have the manual fire-fighting equipment on board and to conduct voyage planning. Therefore, we certify that this rule does not have a significant impact on a substantial number of small entities.

### Assistance for Small Entities

In accordance with 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, P. E., Project Manager, at 202-267-1861.

### Collection of Information

This rule does not provide for a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). As defined in 5 CFR 1320.3(c), "collection of information" includes reporting, recordkeeping, monitoring, posting, labeling, and other, similar actions.

### Federalism

It is well settled that States may not regulate in categories reserved for regulation by the Coast Guard. It is also well settled, now, that all of the categories covered in 46 U.S.C. 3306, 3703, 7101, and 8101 (design, construction, alteration, repair, maintenance, operation, equipping, personnel qualification, and manning of vessels), as well as the reporting of casualties and any other category in which Congress intended the Coast Guard to be the sole source of a vessel's obligations, are within the field foreclosed from regulation by the States. (See the decision of the Supreme Court in the consolidated cases of *United States v. Locke and Intertanko v. Locke*, 529 U.S. 89, 120 S.Ct. 1135 (March 6, 2000).) Because the States may not regulate within these categories, preemption under Executive Order 13132 is not an issue.

### Unfunded Mandates Reform Act

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

### Taking of Private Property

This rule will not effect a taking of private property or, otherwise, have

taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

### Reform of Civil Justice

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

### Protection of Children

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

### Indian Tribal Governments

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

To help the Coast Guard establish regular and meaningful consultation and collaboration with Indian and Alaskan Native tribes, we published a notice in the **Federal Register** (66 FR 36361 (July 11, 2001)) requesting comments on how to best carry out the Order. We invite your comments on how this rule might affect tribal governments, even if any particular effect may not constitute a "tribal implication" under the Order.

### Energy Effects

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

### Environment

We have considered the environmental impact of this rule and

concluded that, under figure 2-1, paragraphs (34) (c) and (d), of Commandant Instruction M16475.ID, this rule is categorically excluded from further environmental documentation. A "Categorical Exclusion Determination" is available in the docket where indicated under **ADDRESSES**.

### List of Subjects

#### 33 CFR Part 164

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

#### 46 CFR Part 25

Fire prevention, Marine safety, Reporting and recordkeeping requirements.

#### 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 amends 33 CFR part 164 and 46 CFR parts 25 and 27 as follows:

### PART 164—NAVIGATION SAFETY REGULATIONS

■ 1. Revise the citation of authority for part 164 to read as follows:

**Authority:** 33 U.S.C. 1222(5), 1223, 1231; 46 U.S.C. 2103, 3703; Department of Homeland Security Delegation No. 0170. Sec. 164.13 also issued under 46 U.S.C. 8502. Sec. 164.61 also issued under 46 U.S.C. 6101.

■ 2. In § 164.78, revise paragraphs (a) (6) and (7), and add paragraph (a)(8) to read as follows:

#### § 164.78 Navigation under way: Towing vessels.

(a) \* \* \*

(6) Knows the speed and direction of the current, set, drift, and tidal state for the area to be transited;

(7) Proceeds at a safe speed taking into account the weather, visibility, density of traffic, draft of tow, possibility of wake damage, speed and direction of the current, and local speed-limits; and

(8) Monitors the voyage plan required by § 164.80.

\* \* \* \* \*

■ 3. In § 164.80, revise the heading of the section and add paragraph (c) to read as follows:

#### § 164.80 Tests, inspections, and voyage planning.

\* \* \* \* \*

(c) Towing vessels described in paragraphs (b) (1) through (4) of § 164.01 are exempt from the voyage-planning

requirements outlined in this section. If any part of a towing vessel's intended voyage is seaward of the baseline (*i.e.*, the shoreward boundary) of the territorial sea of the U.S., then the owner, master, or operator of the vessel, employed to tow a barge or barges, must ensure that the voyage with the barge or barges is planned, taking into account all pertinent information before the vessel embarks on the voyage. The master must check the planned route for proximity to hazards before the voyage begins. During a voyage, if a decision is made to deviate substantially from the planned route, then the master or mate must plan the new route before deviating from the planned route. The voyage plan must follow company policy and consider the following (related requirements noted in parentheses):

(1) Applicable information from nautical charts and publications (also see paragraph (b) of §164.72), including Coast Pilot, Coast Guard Light List, and Coast Guard Local Notice to Mariners for the port of departure, all ports of call, and the destination;

(2) Current and forecast weather, including visibility, wind, and sea state for the port of departure, all ports of call, and the destination (also see paragraphs (a)(7) of §164.78 and (b) of §164.82);

(3) Data on tides and currents for the port of departure, all ports of call, and the destination, and the river stages and forecast, if appropriate;

(4) Forward and after drafts of the barge or barges and under-keel and vertical clearances (air-gaps) for all bridges, ports, and berthing areas;

(5) Pre-departure checklists;

(6) Calculated speed and estimated time of arrival at proposed waypoints;

(7) Communication contacts at any Vessel Traffic Services, bridges, and facilities, and any port-specific requirements for VHF radio;

(8) Any master's or operator's standing orders detailing closest points of approach, special conditions, and critical maneuvers; and

(9) Whether the towing vessel has sufficient power to control the tow under all foreseeable circumstances.

**PART 25—REQUIREMENTS**

■ 4. Revise the citation of authority for part 25 to read as follows:

**Authority:** 33 U.S.C. 1903(b); 46 U.S.C. 3306, 4102, 4302; Department of Homeland Security Delegation No. 0170.

■ 5. In § 25.30–10, revise the heading, and paragraph (c) and Table 25.30–10(c), to read as follows:

**§ 25.30–10 Hand-portable fire extinguishers and semi-portable fire-extinguishing systems.**

\* \* \* \* \*

(c) The number designations for size run from "I" for the smallest to "V" for the largest. Sizes I and II are hand-portable fire extinguishers; sizes III, IV, and V are semi-portable fire-extinguishing systems, which must be fitted with hose and nozzle or other practical means to cover all portions of the space involved. Examples of the sizes for some of the typical hand-portable fire extinguishers and semi-portable fire-extinguishing systems appear in Table 25.30–10(C):

TABLE 25.30–10(C)

Classification	Foam, liters (gallons)	Carbon dioxide, kilograms (pounds)	Dry chemical, kilograms (pounds)
B-I .....	6.5 (1¾)	2 (4)	1 (2)
B-II .....	9.5 (½)	7 (15)	4.5 (10)
B-III .....	45 (12)	16 (35)	9 (20)
B-IV .....	75 (20)	23 (50)	13.5 (30)
B-V .....	150 (40)	45 (100)	23 (50)

■ 6. Revise § 25.30–15 to read as follows:

**§ 25.30–15 Fixed fire-extinguishing systems.**

(a) When a fixed fire-extinguishing system is installed, it must be a type approved or accepted by the Commandant (G–MSE) or the Commanding Officer, U.S. Coast Guard Marine Safety Center.

(b) If the system is a carbon-dioxide type, then it must be designed and installed in accordance with subpart 76.15 of part 76 of subchapter H (Passenger Vessels) of this chapter.

**PART 27—TOWING VESSELS**

■ 7.–8. Revise part 27 to read as follows:

**Subpart A—General Provisions for Fire-Protection Measures and Fire-Suppression Equipment on Towing Vessels**

- Sec.
- 27.100 What towing vessels does this part affect?
- 27.101 Definitions.
- 27.102 Incorporation by reference.

**Subpart B—Fire-Protection Measures for Towing Vessels**

- 27.201 What are the requirements for general alarms on towing vessels?
- 27.203 What are the requirements for fire detection on towing vessels?
- 27.205 What are the requirements for internal communication systems on towing vessels?
- 27.207 What are the requirements for fuel shut-offs on towing vessels?
- 27.209 What are the requirements for training crews to respond to fires?
- 27.211 What are the specifications for fuel systems on towing vessels whose construction was contracted for on or after January 18, 2000?

**Subpart C—Fire-Suppression Equipment for Towing Vessels**

- 27.301 What are the requirements for fire pumps, fire mains, and fire hoses on towing vessels?
- 27.303 What are the requirements for fire-extinguishing equipment on towing vessels in inland service, and on towing vessels in ocean or coastal service whose construction was contracted for before August 27, 2003?

27.305 What are the requirements for fire-extinguishing equipment on towing vessels in ocean or coastal service whose construction was contracted for on or after August 27, 2003?

**Authority:** 46 U.S.C. 3306, 4102 (as amended by Pub. L. 104–324, 110 Stat. 3901); Department of Homeland Security Delegation No. 0170.

**PART 27—TOWING VESSELS**

**Subpart A—General Provisions for Fire-Protection Measures and Fire-Suppression Equipment 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 vessel is one exempt under 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, and used solely for restricted service, such as making up or breaking up larger tows;

(2) Used solely for harbor-assist;

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

(4) Used solely for response to emergency or pollution;

(5) A public vessel that is both 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;

(6) A foreign vessel engaged in innocent passage;

(7) Pushing a barge ahead, or towing a barge alongside, when the barge's coastwise or Great Lakes route is restricted (as indicated on its certificate of inspection), so the barge may operate "in fair weather only, within 20 miles of shore," or with words to that effect; or

(8) Exempted by the Captain of the Port (COTP).

(c) If you think your towing vessel should be exempt from the paragraph (b) 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 vessel lost propulsion because of a fire in the engine room.

(d) You must test and maintain all of the equipment required by this part in accordance with the attached nameplate or manufacturer's approved design manual.

**§ 27.101 Definitions.**

As used in this part—

*Accommodation* includes any:

- (1) Messroom.
- (2) Lounge.
- (3) Sitting area.
- (4) Recreation room.
- (5) Quarters.
- (6) Toilet space.
- (7) Shower room.
- (8) Galley.
- (9) Berthing facility.
- (10) Clothing-changing room.

*Engine room* means the enclosed area where any main-propulsion engine is located. It comprises all deck levels within that area.

*Fixed fire-extinguishing system* means a carbon-dioxide system that satisfies 46 CFR subpart 76.15 and is approved by the Commandant; a manually-operated clean-agent system that satisfies the National Fire Protection Association (NFPA) Standard 2001 (incorporated by reference in § 27.102) and is approved by the Commandant; or a manually-

operated water-mist system that satisfies NFPA Standard 750 (incorporated by reference in § 27.102) and is approved by the Commandant.

*Fleeting-area* means a separate location where individual barges are moored or assembled to make a tow. The barges are not in transport, but are temporarily marshaled, waiting for pickup by different vessels that will transport them to various destinations. A fleeting-area is a limited geographic area.

*Harbor-assist* means docking and undocking ships.

*Limited geographic area* means a local area of operation, usually within a single harbor or port. The local Captain of the Port (COTP) determines the definition of local geographic area for each zone.

*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.

*Towing vessel in inland service* means a towing vessel that is not in ocean or coastal service.

*Towing vessel in ocean or coastal service* means a towing vessel that operates beyond the baseline of the U.S. territorial sea.

*We* means the United States Coast Guard.

*Work space* 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 available at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC 20001, 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 ...	27.211
H-33-1989—Diesel Fuel Systems .....	27.211
National Fire Protection Association (NFPA), 1 Batterymarch Park, Quincy, MA 02269-9101	
NFPA 302-1989—Pleasure and Commercial Motorcraft .....	27.211
NFPA 750—Standard on Water Mist Fire Protection Systems, 2000 edition .....	27.101
NFPA 2001—Standard on Clean Agent Fire Extinguishing Systems, 2000 edition .....	27.101
Society of Automotive Engineers (SAE), 400 Commonwealth Drive, Warrendale, PA 15096-0001	
SAE J1475-1984—Hydraulic Hose Fitting for Marine Applications .....	27.211
SAE J1942-1989—Hose and Hose Assemblies for Marine Applications .....	27.211

**Subpart B—Fire-Protection Measures for Towing Vessels**

**§ 27.201 What are the requirements for general alarms on towing vessels?**

(a) 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) Has installed, in the engine room and any other area where background noise makes a general alarm hard to hear, a supplemental flashing red light that is 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 the system—

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

(2) Is tested at least once each week;

(3) Can be activated from the operating station; and

(4) Complies with paragraph (a)(3) of this section.

**§ 27.203 What are the requirements for fire detection on towing vessels?**

You must have a fire-detection system installed on your vessel to detect

engine-room fires. Any owner of a vessel whose construction was contracted for before January 18, 2000, may use an existing engine-room-monitoring system (with fire-detection capability) instead of a fire-detection system, if the monitoring system is operable and complies with this section. You must ensure that—

(a) Each detector, each control panel, and each fire alarm are approved under 46 CFR subpart 161.002 or listed by an independent testing laboratory; except that, if you use an existing engine-room-monitoring system (with fire-detection capability), each detector must be listed by an independent testing laboratory;

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

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

(d) The control panel includes—

(1) A power-available light;

(2) Both an audible alarm to notify crew at the operating station of fire and visible alarms to identify the zone or zones of origin of the fire;

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

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

(5) Labels for all switches and indicator lights, identifying their functions;

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

(f) The system serves no other purpose, unless it is an engine-room-monitoring system (with fire-detection capability) installed on a vessel whose construction was contracted for before January 18, 2000; and

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

**§ 27.205 What are the requirements for internal communication systems on towing vessels?**

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

(1) Consists 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's engine controls and the access to the engine room 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.

**§ 27.207 What are the requirements for fuel shut-offs on towing vessels?**

To stop the flow of fuel in the event of a break in the fuel line, you must have a positive, remote fuel-shut-off valve fitted on any fuel line that supplies fuel directly to an engine or generator. The valve must be near the source of supply (for instance, at the day tank, storage tank, or fuel-distribution manifold). Furthermore, it must be operable from a safe place outside the space where the valve is installed. Each remote valve control should be marked in clearly legible letters, at least 25 millimeters (1 inch) high, indicating the purpose of the valve and the way to operate it.

**§ 27.209 What are the requirements for training crews to respond to fires?**

(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. You must ensure that all crewmembers are familiar with their fire-fighting duties, and, specifically, with 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 any mechanical ventilation system for the engine room and effectively seal all natural openings to the space to prevent leakage of the extinguishing agent; and

(iii) Operate the fuel shut-off 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 instruction required 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, or simulating the use of, emergency equipment;

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

(4) Putting on protective clothing (by at least one person), 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 participated in the drills required by paragraph (a) of this section, and received the instruction required by that paragraph, receives a safety orientation within 24 hours of reporting for duty.

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

**§ 27.211 What are the specifications for fuel systems on towing vessels whose construction was contracted for on or after January 18, 2000?**

(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 complies with 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 pumps or fire pumps. The design, construction, and stowage of portable tanks and related fuel lines and accessories must comply with ABYC H-25 (incorporated by reference in § 27.102).

(c) *Fuel restrictions.* Neither you nor the master or person in charge 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, heavy fuel oil (HFO), or any fuel that requires pre-heating, must comply with 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 tank must have a vent that connects to the highest point of the tank, discharges on a weather deck through a bend of 180 degrees (3.14 radians), and is fitted with a 30-by-30-mesh corrosion-resistant flame screen. Vents from two or more tanks may combine in a system that discharges on a weather deck.

(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) for any tank filled by gravity; or

(ii) Not less than that of the fill pipe for any tank filled under pressure.

(e) *Fuel piping.* Except as permitted in paragraphs (e)(1), (2), and (3) 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 in § 27.102); 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. Hose complying with SAE J1475 is also acceptable.

(3) Nonmetallic flexible hose complying with SAE J1942 (incorporated by reference in § 27.102) is also acceptable.

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

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

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

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

### Subpart C—Fire-Suppression Equipment for Towing Vessels

#### § 27.301 What are the requirements for fire pumps, fire mains, and fire hoses on towing vessels?

By April 29, 2005, you must provide a self-priming, power-driven, fixed fire-pump, a fire main, and hoses and nozzles in accordance with paragraphs (a) through (c) of this section; or a portable pump, and hoses and nozzles, in accordance with paragraphs (d) and (e) of this section, for your towing vessel.

(a) The fixed fire-pump must be capable of—

(1) Delivering water simultaneously from the two highest hydrants, or from both branches of the fitting if the highest hydrant has a Siamese fitting, at a pitot-tube pressure of at least 344 kPa (50 psi) and a flow rate of at least 300 lpm (80 gpm); and

(2) Being energized from the operating station and from the pump.

(b) The fire main must have a sufficient number of fire hydrants with attached hose to reach any part of the machinery space using a single length of fire hose.

(c) The hose must be lined commercial fire-hose, at least 40mm (1.5 inches) in diameter, 15 meters (50 feet) in length, and fitted with a nozzle made of corrosion-resistant material capable of providing a solid stream and a spray pattern.

(d) The portable fire pump must be self-priming and power-driven, with—

(1) A minimum capacity of at least 300 lpm (80 gpm) at a discharge gauge pressure of not less than 414 kPa (60 psi), measured at the pump discharge;

(2) A sufficient amount of lined commercial fire hose at least 40mm (1.5 inches) in diameter and 15 meters (50 feet) in length, immediately available to attach to it so that a stream of water will reach any part of the vessel; and

(3) A nozzle made of corrosion-resistant material capable of providing a solid stream and a spray pattern.

(e) You must stow the pump with its hose and nozzle outside of the machinery space.

#### § 27.303 What are the requirements for fire-extinguishing equipment on towing vessels in inland service, and on towing vessels in ocean or coastal service whose construction was contracted for before August 27, 2003?

You must carry on your towing vessel both—

(a) The minimum number of hand-portable fire extinguishers required by 46 CFR subpart 25.30; and

(b) By April 29, 2005, either—

(1) An approved B-V semi-portable fire-extinguishing system to protect the engine room; or

(2) A fixed fire-extinguishing system installed to protect the engine room of the vessel.

#### § 27.305 What are the requirements for fire-extinguishing equipment on towing vessels in ocean or coastal service whose construction was contracted for on or after August 27, 2003?

(a) You must carry on your towing vessel both—

(1) The minimum number of hand-portable fire extinguishers required by 46 CFR subpart 25.30; and

(2) An approved B-V semi-portable fire-extinguishing system to protect the engine room.

(b) You must have a fixed fire-extinguishing system installed to protect the engine room of the vessel.

Dated: February 4, 2003.

**Paul J. Pluta,**

*Rear Admiral, Coast Guard, Assistant Commandant for Marine Safety, Security and Environmental Protection.*

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## DEPARTMENT OF TRANSPORTATION

### Saint Lawrence Seaway Development Corporation

#### 33 CFR Part 402

[Docket No. SLSDC 2003-14687]

RIN 2135-AA17

#### Tariff of Tolls

**AGENCY:** Saint Lawrence Seaway Development Corporation, DOT.

**ACTION:** Final rule.

**SUMMARY:** The Saint Lawrence Seaway Development Corporation (SLSDC) and the St. Lawrence Seaway Management Corporation (SLSMC) of Canada, under international agreement, jointly publish and presently administer the St. Lawrence Seaway Tariff of Tolls in their respective jurisdictions. The Tariff sets forth the level of tolls assessed on all commodities and vessels transiting the facilities operated by the SLSDC and the SLSMC. The SLSDC is revising its regulations to reflect the fees and charges charged by the SLSMC in Canada starting in the 2003 navigation season, which are effective only in Canada. The SLSDC also is amending the regulations to increase the minimum charge per lock transited for full or partial transit of the Seaway to be charged by the SLSDC for transit