



9110-04-P

**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**46 CFR Parts 136 and 142**

**Docket No. USCG-2017-1060**

**RIN 1625-AC43**

**Harmonization of Fire Protection Equipment Standards for Towing Vessels**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Interim final rule; request for comments.

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**SUMMARY:** The Coast Guard is issuing an interim final rule to apply changes made by the 2016 final rule, *Harmonization of Standards for Fire Protection, Detection, and Extinguishing Equipment*, to inspected towing vessels. Applying these updated fire protection requirements to inspected towing vessels will align regulations for inspected towing vessels with other commercial vessel regulations.

**DATES:** This interim final rule is effective **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Comments and related material must be submitted to the online docket via <http://www.regulations.gov> on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. The incorporation by reference of certain publications listed in the rule is approved by the Director of the Federal Register on **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** You may submit comments identified by docket number USCG-2017-1060 using the Federal eRulemaking Portal at <https://www.regulations.gov>. See the



DHS	Department of Homeland Security
<i>Fire Protection rule</i>	<i>Harmonization of Standards for Fire Protection, Detection, and Extinguishing Equipment</i> final rule, 81 FR 48220, July 22, 2016
FR	<i>Federal Register</i>
IFR	Interim final rule
NFPA 10	National Fire Protection Association Standard for Portable Fire Extinguishers, 2010 edition
OMB	Office of Management and Budget
RA	Regulatory Analysis
§	Section symbol
Subchapter M	46 CFR subchapter M—Towing Vessels
U.S.C.	United States Code

## II. Basis and Purpose, and Regulatory History

This interim final rule harmonizes fire protection requirements regarding portable and semi-portable fire extinguishers on inspected towing vessels with the requirements for other commercial vessels in Title 46 of the Code of Federal Regulations (CFR), including uninspected towing vessels. The Coast Guard may regulate fire protection equipment on inspected towing vessels under statutory authority found in 46 U.S.C. 3301 and 3306, which was delegated by the Secretary of Homeland Security to the Coast Guard in DHS Delegation Number 0170.1(II)(92).

The Coast Guard issues this rule without prior notice and opportunity for public comment. Section 553(b)(B) of the Administrative Procedure Act provides an exception from notice and comment requirements when an agency finds that notice and comment are “impracticable, unnecessary, or contrary to the public interest.” In accordance with 5 U.S.C. 553(b)(B), the Coast Guard finds that notice and comment are unnecessary because this rule would not require a substantive change of fire protection equipment on towing vessels, and would align with regulatory requirements already met by all existing towing vessels. This rule will revise 46 CFR subchapter M to require inspected towing vessels to meet fire protection equipment requirements that already apply to other

commercial vessels, including uninspected towing vessels. The Coast Guard updated these standards in its 2016 *Fire Protection* rule. At the time the Coast Guard updated the fire protection equipment requirements for other commercial vessels, there were no towing vessels inspected under subchapter M: the Coast Guard established subchapter M in a June 2016 rule that published one month prior to the *Fire Protection* rule, and, as a practical matter, did not place requirements on any towing vessel until July 2017 or later.<sup>1</sup> Because of the timing of subchapter M requirements, at this time uninspected towing vessels are subject to the more modern *Fire Protection* rule provisions. This rule corrects the anomalous situation whereby a towing vessel transitioning from uninspected to inspected status would be required to comply with the previous standards instead of the updated *Fire Protection* rule. Moreover, all existing marine fire extinguishers already meet the requirements of this interim final rule, and the number of extinguishers required on a vessel will not change. Because this rule will not require any existing vessel to change its equipment or practices, the Coast Guard finds good cause to forgo notice and opportunity to comment.

### III. Discussion of the Rule

Under existing regulations, towing vessels must carry Coast Guard-approved fire extinguishers.<sup>2</sup> Historically, the labels on all Coast Guard-approved fire extinguishers displayed two ratings: a performance rating determined by testing to the industry consensus standard UL 711, and a USCG Type/Size rating based on type of fire and the quantity of extinguishing agent. In its *Fire Protection* rule, the Coast Guard eliminated

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<sup>1</sup> The *Inspection of Towing Vessels* final rule published on June 20, 2016 (81 FR 40003). It gave existing towing vessels 2 years or more to comply with the rule, and defined “new towing vessel” such that no vessel would be subject to new vessel requirements until at least July 20, 2017. See discussion at 81 FR 40061.

<sup>2</sup> See 46 CFR part 142 subpart B for inspected towing vessels, and 46 CFR subpart 25.30 for uninspected towing vessels.

the USCG Type/Size rating requirement from 46 CFR part 162 in favor of the UL standard, but the fire protection regulations in 46 CFR subchapter M are still framed in terms of USCG Type/Size rating. This rule will change those provisions in part 142 of subchapter M to reflect the UL standard instead, matching the changes made by the *Fire Protection* rule.

This rule does not change the number of extinguishers required, and an extinguisher that displays the USCG Type/Size rating may still be used if it meets all other requirements. This rule adds a grandfathering clause in section 142.231(a), identical to one that appears in 46 CFR 25.30-80 as a result of the *Fire Protection* rule, in order to avoid any new obligation on uninspected vessels that become inspected and subject to subchapter M. For similar reasons, section 142.240 makes semi-portable fire extinguishers subject to the rules for portable extinguishers instead of fixed fire extinguishing systems; this change matches the treatment of semi-portable extinguishers on similar vessels subject to 46 CFR part 25.

In addition, this rule revises maintenance requirements for fire extinguishers. Subchapter M had required extinguisher maintenance in accordance with the industry consensus standard NFPA 10, which requires certified personnel to conduct annual fire extinguishing equipment maintenance. NFPA 10 also requires monthly visual inspections and documentation by certified personnel. Section 142.240 provides for some departures from NFPA 10 to: allow for the acceptance of state and local licenses for inspections; allow an owner, operator, or qualified crewmember to complete monthly inspections (as opposed to certified personnel); and reduce the requirements of the annual inspection for non-rechargeable extinguishers. These modifications are consistent with

those put into place for other commercial vessels, including uninspected towing vessels, by the *Fire Protection* rule. Section 142.240(a) also imports a provision from the *Fire Protection* rule requiring that if the marine inspector or third-party organization finds that equipment or records are not properly maintained, then a qualified servicing facility must perform the required activities. This provision is less stringent than the NFPA 10 provision in the original subchapter M text.

Finally, this rule makes non-substantive changes such as replacing the term “hand-portable” with “portable.” It also updates the edition of NFPA 10 from 2007 to the 2010 edition used in the *Fire Protection* rule; there are no substantive changes between these two editions.

#### IV. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on these statutes or Executive orders.

##### A. Regulatory Planning and Review

Executive Orders 12866 (“Regulatory Planning and Review”) and 13563 (“Improving Regulation and Regulatory Review”) direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity).

Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. Executive Order 13771 (“Reducing Regulation and Controlling Regulatory Costs”), directs agencies to

reduce regulation and control regulatory costs and provides that “for every one new regulation issued, at least two prior regulations be identified for elimination, and that the cost of planned regulations be prudently managed and controlled through a budgeting process.”

The Office of Management and Budget (OMB) has not designated this rule a significant regulatory action under section 3(f) of E.O. 12866. As this rule is not a significant regulatory action, this rule is exempt from the requirements of Executive Order 13771. *See* OMB’s Memorandum “Guidance Implementing Executive Order 13771, Titled ‘Reducing Regulation and Controlling Regulatory Costs’” (April 5, 2017). A regulatory analysis (RA) follows.

This interim final rule (IFR) will update the fire safety rules in subchapter M to incorporate changes brought about by the publication of the *Fire Protection* final rule. Specifically, fire extinguisher ratings and carriage requirements must all be brought up to date. Affected sections of subchapter M (all located in 46 CFR part 142, Fire Protection) are: §§ 142.215(a), (c) and (d); 142.225(d); 142.230; new 142.231; 142.240; and 142.315(a)(3)(i) and (b)(1).

Table 1 presents a summary of the impacts of this rule.

Table 1: Summary of Impacts of the Rule

<b>Category</b>	<b>Summary</b>
Applicability	Towing vessels required to be inspected under subchapter M
Affected population	5,509 towing vessels
Costs	No costs identified
Benefits	Harmonizes with <i>Fire Protection</i> to provide consistent guidance to industry.

**Affected Population**

The affected population consists of the U.S. flagged towing vessels subject to the provisions of subchapter M. The RA performed for the *Inspection of Towing Vessels* final rule identified 5,509 towing vessels that will be affected and concluded that the long-term pattern was a steady-state population. We have no new information to revise that conclusion and will use the population from that rule for this analysis.

**Cost Analysis**

This interim final rule contains 29 changes to the fire protection regulations in subchapter M. A summary of these changes follows:

- Made eighteen minor edits to the regulatory text to harmonize subchapter M text with *Fire Protection* (e.g., “hand portable” to “portable”); update technical references (e.g. “B-1” to “10-B:C.”); correct grammatical errors or improve clarity; and harmonize references to other sections within subchapter M.
- Revised five paragraphs to either consolidate or edit existing text for clarity, or delete text that is no longer needed.
- Added three new provisions to increase industry options to comply with NFPA 10. An example is to allow for the acceptance of state and local licenses for inspections.
- Added a new paragraph to allow equipment beyond the regulatory minimum.
- Added a new paragraph to allow continued use of existing dual-label equipment.
- Added a new provision that restates current recordkeeping requirements.

Overall, the Coast Guard has not identified any costs associated with these changes. The changes and economic impacts are described in Table 2.

Table 2: Assessment of Cost Impacts of the Rule

Description of Change	Type of Change	Cost Impact
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Description of Change	Type of Change	Cost Impact
<b>Subpart B - List of Sections</b>		
Change “Hand-portable” to “Portable”.	Non-substantive text edit for consistent usage.	No cost.
Add new section title “142.231 Exception for portable and semi-portable extinguishers required for existing towing vessels.”	Non-substantive text edit to consolidate requirements for new and existing vessels.	No cost.
<b>§ 142.215(a)</b>		
Change “Hand-portable” to “Portable.”	Non-substantive text edit for consistent usage.	No cost.
<b>§ 142.215(c)</b>		
Edit and reorganize paragraph for clarity.	Non-substantive text edit only.	No cost.
Moved the last sentence to new paragraph § 142.215(d)	Non-substantive text edit only.	No cost.
<b>§ 142.215(d)</b>		
Created new paragraph § 142.215(d) that contains the last sentence of former § 142.215(c)	Non-substantive text edit only.	No cost.
<b>§ 142.225(d)</b>		
Change equipment type from “B-II” to “40-B” and other edits.	Non-substantive text edit for consistent usage.	No cost.
Edit and reorganize paragraph for clarity.	Non-substantive text edit only.	No cost.
<b>§ 142.230</b>		
Change “Hand-portable” to “Portable”.	Non-substantive text edit for consistent usage.	No cost.
<b>§ 142.230(a), (b), &amp; (c)</b>		
Delete, refers to labeling system that is no longer in use. Former paragraphs (d) and (e) now (a) and (b).	Removal of outdated labeling terms.	No cost.
<b>§ 142.230(d)(1) new § 142.230(a)</b>		
Change “B-I” to “10-B:C”, “Hand-portable” to “Portable”, and “B-II” to “40-B:C.”	Change to labeling terms.	No cost.
<b>§ 142.230(d)(2) new § 142.230(b)</b>		
Change “Hand-portable” to “Portable”.	Non-substantive text edit for consistent usage.	No cost.
Change “a” to “At” and correct references to table and paragraph.	Non-substantive text edit only.	No cost.
In Table 142.230(d)(2), change “B-II” to “40-B:C”.	Change to labeling terms.	No cost.
<b>§ 142.230(d)(2)(ii)</b>		
Delete paragraph as no longer needed.	Non-substantive text edit only.	No cost.
<b>§ 142.230(e) new § 142.230(c)</b>		

<b>Description of Change</b>	<b>Type of Change</b>	<b>Cost Impact</b>
Change paragraph reference and change reference to sizes to “any.”	Removal of outdated labeling terms.	No cost.
<b>New § 142.230(d)</b>		
Allow for equipment beyond regulatory minimum.	New text.	No cost, no mandated requirements.
<b>§ 142.231(a)</b>		
Add provision to accept current equipment and continue use of dual-label equipment.	New text.	No cost, no mandated requirements.
<b>§ 142.231(b)</b>		
Reference requirements in part 142 for new vessels.	New text.	No cost, subchapter M applies to new vessels.
<b>§ 142.240(a)</b>		
Change “Hand-portable” to “Portable”.	Non-substantive text edit for consistent usage.	No cost.
<b>§ 142.240(a)(1)(i)</b>		
Move requirements for semi-portable equipment from § 142.240(a)(2) to this subparagraph.	Align with 46 CFR part 25.	No cost.
Delete references to Table 142.240 as this is redundant with existing text.	Non-substantive text edit for clarity.	No cost.
Allow for the acceptance of state and local licenses for inspections.	New text.	No cost, no mandated requirements.
<b>§ 142.240(a)(1)(ii)</b>		
Modify requirements of NFPA 10 to allow monthly inspections by owner, operator, person-in-charge, or crew member.	New text.	No cost, no mandated requirements.
<b>§ 142.240(a)(1)(iii)</b>		
Modify requirements of NFPA 10 to allow annual maintenance by owner, operator, person-in-charge, or crew member.	New text.	No cost, no mandated requirements.
<b>§ 142.240(a)(1)(iv)</b>		
Maintain evidence of servicing and provide to inspector. If evidence is unsatisfactory, prescribed examinations, maintenance, and tests must be conducted.	New text.	No cost, current industry practice.
<b>§ 142.240(a)(2)</b>		
Delete “semi-portable.”	Align with 46 CFR part 25 and NFPA 10.	No cost, current industry practice.
<b>§ 142.240, Table 142.240</b>		
Delete “semi-portable”.	Align with 46 CFR part 25 and NFPA 10.	No cost, current industry practice.
<b>§ 142.240(c)(2)</b>		
Change “Hand-portable” to “Portable”.	Non-substantive text edit for consistent usage.	No cost.

Description of Change	Type of Change	Cost Impact
<b>§ 142.315(a)(3)(i) &amp; (b)(1)</b>		
Change “B-V” to “160-B.”	Change to labeling terms.	No cost.

### **Benefits**

The primary benefit of this interim final rule is to align the fire safety rules in subchapter M with the changes brought about by the publication of the *Fire Protection* rule. The changes include removal of a labeling requirement, and flexibility in the application of NFPA 10. This will provide a consistent set of fire protection requirements to towing vessel owners and operators.

### **Alternatives**

When creating this interim final rule, the Coast Guard considered several alternatives. The previous analysis represents the preferred alternative, which will align fire protection requirements in subchapter M with the *Fire Protection* rule.

#### **Alternative 1: Preferred Alternative**

The preferred alternative is to update the fire safety rules in subchapter M to match changes made by the *Fire Protection* rule. The analysis for this alternative appears in the “Regulatory Analysis” section of the preamble of this interim final rule.

#### **Alternative 2: No Action Alternative**

In this alternative, the Coast Guard would take no action regarding the differences between 46 CFR part 25 and 46 CFR part 142. As this would impose an inconvenience to industry by not removing the outdated labeling requirement, we reject this alternative.

#### **Alternative 3: Not Including New Options**

This option would remove the outdated labeling requirement for fire

extinguishers, but would not provide for any flexibility in applying the requirements of NFPA 10. The benefit of this alternative is the harmonization of text with other fire protection regulations, including those that already apply to uninspected towing vessels. This alternative would not add any new costs, as NFPA 10 is referenced in subchapter M, but would not offer any new compliance options.

#### B. Small Entities

Under the Regulatory Flexibility Act, 5 U.S.C. 601-612, we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

Our economic analysis concluded that this interim final rule will have no cost impact and will not affect the small entities that own and operate the towing vessels that comprise the affected population, described above. Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule will have a significant economic impact on it, please submit a comment at the address under ADDRESSES. In your comment, explain why you think it qualifies and how and to what degree this rule will economically affect it.

#### C. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act

of 1996, Public Law 104-121, we offered to assist small entities in understanding this rule so that they could better evaluate its effects on them and participate in the rulemaking. The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247).

#### D. Collection of Information

This rule calls for no new collection of information or modification of an existing collection of information under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501-3520.

#### E. Federalism

A rule has implications for federalism under Executive Order 13132 ("Federalism") if it has a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under Executive Order 13132 and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132. Our analysis is explained below.

It is well settled that States may not regulate in categories reserved for regulation by the Coast Guard. It is also well settled 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 Supreme Court's decision in *United States v. Locke and Intertanko v. Locke*, 529 U.S. 89, 120 S.Ct. 1135 (2000). This rule covers foreclosed categories as it establishes regulations covering fire extinguishing equipment for towing vessels subject to inspection under 46 U.S.C. 3301 and 3306. Therefore, because the States may not regulate within these categories, this rule is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

F. Unfunded Mandates Reform Act

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

G. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630 (“Governmental Actions and Interference with Constitutionally Protected Property Rights”).

H. Civil Justice Reform

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

I. 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 will not create an environmental risk to health or risk to safety that might disproportionately affect children.

J. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175 (“Consultation and Coordination with Indian Tribal Governments”), because it will 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.

K. 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.

L. Technical Standards and Incorporation by Reference

The National Technology Transfer and Advancement Act, codified as a note to 15 U.S.C. 272, directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through OMB, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies. This rule uses the following updated voluntary consensus standard:

NFPA 10, Standard for Portable Fire Extinguishers, 2010 Edition, effective December 5, 2009. This standard applies to the selection, installation, inspection, maintenance, recharging, and testing of portable fire extinguishers.

Consistent with 1 CFR part 51 incorporation by reference provisions, this material is reasonably available. Interested persons have access to it through their normal course of business, may purchase it from the organization identified in 46 CFR 136.112(h), or may view a copy by means we have identified in that section.

M. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01, Revision (Rev) 1, and Commandant Instruction M16475.1D (COMTINST M16475.1D), which guide the Coast Guard in complying with the National

Environmental Policy Act of 1969 (42 U.S.C. 4321-4370f), and have concluded that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. A Record of Environmental Consideration (REC) supporting this determination is available in the docket where indicated under the “Public Participation and Request for Comments” section of this preamble.

This interim final rule (IFR) is categorically excluded under paragraphs (34)(a), (d), and (e) of Figure 2 in COMDTINST M16475.1D, and also under paragraph 6(a) of the “Appendix to National Environmental Policy Act: Coast Guard Procedures for Categorical Exclusions, Notice of Final Agency Policy” (67 FR 48243, July 23, 2002). This IFR updates 46 CFR subchapter M to harmonize fire safety standards for inspected towing vessels with those of other commercial vessels. These matters are editorial or procedural in nature; involve the inspection, equipping, equipment approval and carriage requirements of vessels; and also concern vessel safety standards. This rule supports the Coast Guard’s maritime safety mission.

#### V. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

We encourage you to submit comments through the Federal eRulemaking Portal at <https://www.regulations.gov>. If your material cannot be submitted using

<https://www.regulations.gov>, contact the person in the FOR FURTHER INFORMATION CONTACT section of this document for alternate instructions. Documents mentioned in this notice, and all public comments, are in our online docket at <https://www.regulations.gov> and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted or a final rule is published.

We accept anonymous comments. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you have provided. For more about privacy and the docket, you may review a Privacy Act notice regarding the Federal Docket Management System in the March 24, 2005, issue of the Federal Register (70 FR 15086).

## **List of Subjects**

### **46 CFR Part 136**

Incorporation by Reference, Reporting and recordkeeping requirements, Towing vessels.

### **46 CFR Part 142**

Fire prevention, Incorporation by Reference, Marine safety, Reporting and recordkeeping requirements, Towing vessels.

For the reasons discussed in the preamble, the Coast Guard amends 46 CFR parts 136 and 142 as follows:

## **PART 136—CERTIFICATION**

1. The authority citation for part 136 continues to read as follows:

Authority: 46 U.S.C. 3103, 3301, 3306, 3308, 3316, 8104, 8904; 33 CFR 1.05; DHS Delegation 0170.1.

2. Amend § 136.112 by revising paragraph (h)(1) to read as follows:

**§ 136.112 Incorporation by reference.**

\* \* \* \* \*

(h) \* \* \*

(1) NFPA 10—Standard for Portable Fire Extinguishers, 2010 Edition, effective December 5, 2009, IBR approved for §142.240(a) of this subchapter.

\* \* \* \* \*

**PART 142—FIRE PROTECTION**

3. The authority citation for part 142 continues to read as follows:

Authority: 46 U.S.C. 3103, 3301, 3306, 3308, 3316, 8104, 8904; 33 CFR 1.05; Department of Homeland Security Delegation 0170.1.

4. Amend § 142.215 as follows:

- a. In paragraph (a), remove the text “hand-”; and
- b. Revise paragraph (c); and
- c. Add paragraph (d).

The revision and addition read as follows:

**§ 142.215 Approved equipment.**

\* \* \* \* \*

(c) New installations of fire-extinguishing and fire-detection equipment of a type not required, or in excess of that required by this part, may be permitted—

- (1) If Coast Guard approved;
- (2) If accepted by the local OCMI or TPO, as applicable; or

(3) If equipment and components are listed and labeled by an independent Nationally Recognized Testing Laboratory (NRTL), as that term is defined in 29 CFR 1910.7, and are designed, installed, tested, and maintained in accordance with an appropriate industry standard and the manufacturer’s specific guidance.

(d) Existing equipment and installations not meeting the applicable requirements of this part may be continued in service so long as they are in good condition and accepted by the local OCMI or TPO.

5. Amend § 142.225 by revising paragraph (d) to read as follows:

**§ 142.225 Storage of flammable or combustible products.**

\* \* \* \* \*

(d) A 40-B portable fire extinguisher must be located near the storage room or cabinet. This is in addition to the portable fire extinguishers required by tables 142.230(a) and 142.230(b) of this part.

6. Revise § 142.230 to read as follows:

**§ 142.230 Portable fire extinguishers and semi-portable fire-extinguishing systems.**

(a) Towing vessels of 65 feet or less in length must carry at least the minimum number of portable fire extinguishers set forth in table 142.230(a).

**Table 142.230(a)--10-B:C Portable fire extinguishers**

Length, feet	Minimum number of 10-B:C portable fire extinguishers required <sup>1</sup>	
	No fixed fire-extinguishing system in machinery space	Fixed fire-extinguishing system in machinery space

Under 26 <sup>2</sup>	1	0
26 and over, but under 40	2	1
40 and over, but not over 65	3	2

<sup>1</sup> One 40-B:C portable fire extinguisher may be substituted for two 10-B:C portable fire extinguishers.

<sup>2</sup> See §136.105 of this subchapter concerning vessels under 26 feet.

(b) Towing vessels of more than 65 feet in length must carry--

(1) At least the minimum number of portable fire extinguishers set forth in table 142.230(b); and

(2) One 40-B portable fire extinguisher fitted in the engine room for each 1,000 brake horsepower of the main engines or fraction thereof. A towing vessel is not required to carry more than six additional 40-B portable fire extinguishers in the engine room for this purpose, regardless of horsepower.

**Table 142.230(b)--40-B:C Portable fire extinguishers**

Gross tonnage—		Minimum number of 40-B:C portable fire extinguishers
Over	Not over	
	50	1
50	100	2
100	500	3
500	1,000	6
1,000		8

(c) The frame or support of any semi-portable fire extinguisher fitted with wheels must be welded or otherwise permanently attached to a steel bulkhead or deck to prevent it from rolling under heavy sea conditions.

(d) Extinguishers with larger numerical ratings or multiple letter designations may be used if the extinguishers meet the minimum requirements of this section.

7. Add § 142.231 to read as follows:

**§ 142.231 Exception for portable and semi-portable fire extinguishers required for existing towing vessels.**

(a) Previously installed fire extinguishers with extinguishing capacities smaller than what is required by § 142.230 of this part need not be replaced and may be continued in service so long as they are maintained in good condition to the satisfaction of the OCMI.

(b) All new equipment and installations must meet the applicable requirements in this part for new vessels.

8. Amend § 142.240 by revising paragraphs (a) introductory text, (a)(1) and (2), the heading for Table 142.240, and paragraph (c)(2) to read as follows:

**§ 142.240 Inspection, testing, maintenance, and records.**

(a) *Inspection and testing.* All portable fire extinguishers, semi-portable fire-extinguishing systems, fire-detection systems, and fixed fire-extinguishing systems, including ventilation, machinery shutdowns, and fixed fire-extinguishing system pressure-operated dampers on board the vessel, must be inspected or tested at least once every 12 months, as prescribed in paragraphs (a)(1) through (8) of this section, or more frequently if otherwise required by the TSMS applicable to the vessel.

(1) Portable and semi-portable fire extinguishers must be inspected, maintained, and tested in accordance with the inspection, maintenance procedures, and hydrostatic pressure tests required by Chapters 7 and 8 of NFPA 10, Standard for Portable Fire Extinguishers (incorporated by reference, see § 136.112 of this subchapter), with the frequency specified by NFPA 10 and as amended here:

(i) Certification or licensing by a state or local jurisdiction as a fire extinguisher servicing agency will be accepted by the Coast Guard as meeting the personnel certification requirements of NFPA 10 for annual maintenance and recharging of extinguishers.

(ii) Monthly inspections required by NFPA 10 may be conducted by the owner, operator, person-in-charge, or a designated member of the crew.

(iii) Non-rechargeable or non-refillable extinguishers must be inspected and maintained in accordance with NFPA 10; however, the annual maintenance need not be conducted by a certified person and can be conducted by the owner, operator, person-in-charge, or a designated member of the crew.

(iv) The owner or managing operator must provide satisfactory evidence of the required servicing to the marine inspector or TPO, as applicable. If any of the equipment or records have not been properly maintained, a qualified servicing facility must perform the required inspections, maintenance procedures, and hydrostatic pressure tests. A tag issued by a qualified servicing organization, and attached to each extinguisher, may be accepted as evidence that the necessary maintenance procedures have been conducted.

(2) Fixed fire-extinguishing systems must be inspected and tested, as required by table 142.240 of this section, in addition to the tests required by §§ 147.60 and 147.65 of subchapter N of this chapter.

\* \* \* \* \*

**Table 142.240 to paragraph (a) - Fixed fire-extinguishing systems**

\* \* \* \* \*

\* \* \* \* \*

(c) \* \* \*

(2) The records of inspections and tests of portable fire extinguishers and semi-portable fire-extinguishing systems may be recorded in accordance with paragraph (c)(1) of this section, or on a tag attached to each unit by a qualified servicing organization.

**§ 142.315 [Amended]**

9. Amend § 142.315 by removing the text “B-V” in paragraphs (a)(3)(i) and (b)(1) and adding in its place the text “160-B”.

Dated: February 15, 2018

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