



DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 175

46 CFR Part 25

[Docket No. USCG-2018-0099]

RIN 1625-AC41

Fire Protection for Recreational Vessels

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to amend the rules for recreational vessels by moving fire extinguishing equipment standards for recreational vessels from the uninspected vessel subchapter, which includes requirements for both recreational and commercial vessels, to the subchapter applicable only to recreational vessels. This proposed move would relieve owners of recreational vessels from having to adhere to NFPA 10 fire extinguisher inspection, maintenance, and recordkeeping requirements intended to apply to commercial vessels only. This would not alter fire extinguishing equipment standards for commercial vessels, but would correct an incongruity in our regulations.

DATES: Comments and related material must be received by the Coast Guard on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. Comments sent to the Office of Management and Budget (OMB) on collection of information must reach OMB on or before 60 days after publication in the **Federal Register**.

ADDRESSES: You may submit comments identified by docket number USCG-2018-0099

using the Federal eRulemaking Portal at <https://www.regulations.gov>. See the “Public Participation and Request for Comments” portion of the SUPPLEMENTARY INFORMATION section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: For information about this document, call or email Sean Ramsey, Office of Design and Engineering Standards, Lifesaving and Fire Safety Division (CG-ENG-4), Coast Guard; telephone 202-372-1392, email *Sean.M.Ramsey@uscg.mil*.

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- I. Public Participation and Request for Comments**

The Coast Guard views 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 you cannot submit your material by using <https://www.regulations.gov>, contact the person in the FOR FURTHER INFORMATION CONTACT section of this notice of proposed rulemaking (NPRM) for alternate instructions. Documents mentioned in this NPRM, and all public comments, will be available in our online docket at <https://www.regulations.gov>, and can be viewed by following that website's instructions. Additionally, if you visit the online docket and sign up for email alerts, you will be notified when comments are posted or if a final rule is published.

We accept anonymous comments. All comments received will be posted without change to <https://www.regulations.gov> and will include any personal information you have provided. For more about privacy and the docket, visit <https://www.regulations.gov/privacyNotice>.

We are not planning to hold a public meeting, but will consider doing so if public comments indicate a meeting would be helpful. We would issue a separate **Federal Register** notice to announce the date, time, and location of such a meeting.

II. Abbreviations

CATEX	Categorical exclusion
CFR	Code of Federal Regulations
“Fire Protection” rule	Harmonization of Standards for Fire Protection, Detection, and Extinguishing Equipment final rule, 81 FR 48220, published July 22, 2016
FR	Federal Register
NBSAC	National Boating Safety Advisory Council
NFPA 10	National Fire Protection Association Standard for Portable Fire Extinguishers, 2010 edition
NPRM	Notice of proposed rulemaking
OMB	Office of Management and Budget
RA	Regulatory analysis
§	Section symbol
U.S.C.	United States Code

III. Basis and Purpose

A. Purpose

This proposed rule would update Coast Guard regulations pertaining to fire extinguishing equipment requirements and the associated standards used by recreational vessels. The Coast Guard proposes removing some requirements and burdens that were unintentionally applied to the recreational vessel community by the final rule titled, “Harmonization of Standards for Fire Protection, Detection, and Extinguishing Equipment” (the “Fire Protection” rule), 81 FR 48220, published July 22, 2016. The Coast Guard also proposes moving fire extinguishing equipment rules for recreational vessels from subpart 25.30 (Fire Extinguishing Equipment) of subchapter C (Uninspected Vessels) of Title 46 of the Code of Federal Regulations (CFR) to part 175 of subchapter S (Boating Safety) of Title 33, where other recreational vessel rules already exist.

B. Basis

Section 4302(a)(2) of Title 46 of the United States Code (U.S.C.) authorizes the Secretary of Homeland Security to prescribe regulations requiring the installation, carrying, or use of firefighting equipment and prohibiting the installation, carrying, or use of equipment that does not conform to the safety standards established under section 4302. The Secretary of Homeland Security delegated this authority to the Coast Guard by the Department of Homeland Security Delegation No. 0170.1(II)(92)(b).

IV. Background

Portable fire extinguishers may be rechargeable or non-rechargeable (disposable). Rechargeable extinguishers can be refilled after use or after a certain amount of time has elapsed, while non-rechargeable extinguishers must be discarded. Recreational vessels typically carry non-rechargeable extinguishers. This is because rechargeable extinguishers are not common in

the 5-B size that is required for recreational vessels, and can be difficult to find and purchase. Also, rechargeable units of this size tend to be special purpose extinguishers such as carbon dioxide or clean agent extinguishers commonly used in an areas such as server rooms, not on recreational vessels, and come at a significantly higher price than non-rechargeable extinguishers.

Through the “Fire Protection” rule, the Coast Guard sought to harmonize and align Coast Guard regulations with current international and industry consensus standards, including the National Fire Protection Association’s “Standard for Portable Fire Extinguishers,” 2010 edition (NFPA 10).¹ NFPA 10 requires vessel owners and operators to complete monthly visual inspections and annual maintenance – defined in NFPA 10 as a thorough examination, and repair or replacement if needed – of portable fire extinguishers, and to maintain records of the inspections and maintenance. In the “Fire Protection” rule, the Coast Guard allowed the monthly inspections of all fire extinguishers to be carried out by the vessel owner, operator, person-in-charge, or a designated member of the crew, rather than by a certified person as provided in NFPA 10. The “Fire Protection” rule also allowed these individuals to perform annual maintenance on non-rechargeable (disposable) extinguishers, but retained the NFPA 10 requirement that rechargeable extinguishers be maintained by a certified person such as a licensed servicing agency.

As part of the regulatory analysis (RA) for the 2016 “Fire Protection” rule, the Coast Guard estimated that recreational vessel owners would not be burdened by any costs from the implementation of NFPA 10. The Coast Guard did not receive public comments on this topic

¹ NFPA is a nonprofit organization that develops technical codes and consensus standards to eliminate death, injury, property and economic loss due to fire, electrical and related hazards. NFPA 10 is one of those standards that lists requirements to ensure that portable fire extinguishers will work as intended to provide a first line of defense against fires of limited size.

during the public comment period on that rule. After publication of the rule, however, we realized the requirements to visually inspect and maintain non-rechargeable (disposable) extinguishers as described in NFPA 10, and to keep records of those activities in compliance with NFPA 10, represented new burdens on recreational vessel owners and operators. We did not account for those burdens in the RA for the 2016 rule and we lacked the data to justify placing those burden on recreational vessel owners and operators.

Finally, after publication of the “Fire Protection” rule, the Coast Guard noted an incongruity in our vessel safety regulations regarding fire extinguishers. The current recreational vessel fire extinguishing equipment rules exist separately from other recreational vessel rules. This proposed rule would consolidate the recreational vessel fire extinguishing equipment requirements from 46 CFR subpart 25.30 into 33 CFR part 175, where other recreational vessel-specific rules are located. This proposed rule would also create a clear distinction between fire extinguishing equipment regulations intended for commercial vessels and the regulations intended for recreational vessels.

In support of this effort, on October 22, 2016, the National Boating Safety Advisory Council (NBSAC) passed a resolution (NBSAC Resolution 2016-96-02) recommending that the Coast Guard remove the NFPA 10 recordkeeping requirements from recreational vessels and consolidate recreational vessel fire protection and boating safety requirements into 33 CFR subchapter S. The 50 States and 6 U.S. territories that enforce boating safety requirements may choose to incorporate Coast Guard regulations into their own legislation or regulations. We alerted the States to the NBSAC Resolution 2016-96-02 and to the fact that we did not intend for recreational vessel owners and operators to be subject to the NPFA 10 monthly visual inspection, annual maintenance, and recordkeeping requirements.

V. Discussion of Proposed Rule

This proposed rule is discussed in detail in the following three steps:

- 1) Remove recreational vessel fire extinguishing equipment regulations from 46 CFR subpart 25.30 (Fire Extinguishing Equipment).
 - a) Fire extinguishing equipment regulations in 46 CFR subpart 25.30 (Fire Extinguishing Equipment) currently apply to all motorboats and motor vessels (as defined by 46 CFR 24.10-1), both recreational and commercial. In order to make subpart 25.30 regulations apply to commercial vessels only, the Coast Guard proposes to revise the applicability section in 46 CFR 25.30-1 so that the fire extinguishing equipment regulations in subpart 25.30 would explicitly not apply to recreational vessels. We would change only the applicability of the fire extinguishing equipment regulations, and would not change the applicability of any other requirements in part 25.
 - b) The other requirements in part 25 (life preservers, navigation lights, ventilation, etc.) will not be changed or moved to Title 33 of the CFR because they either expressly exclude recreational vessels or already exist in the Title 33 provisions for recreational vessels.
- 2) Move all of the fire extinguishing equipment regulations for recreational vessels from 46 CFR subpart 25.30 to 33 CFR part 175, subpart E, and revise the regulations to no longer require recreational vessel owners and operators to follow the monthly visual inspection, annual maintenance, and recordkeeping requirements of NFPA 10.
 - a) The Coast Guard would create a new subpart E, Fire Protection Equipment, under part 175 (Equipment Requirements) in 33 CFR subchapter S (Boating Safety),

and add the fire extinguishing equipment regulations from 46 CFR subpart 25.30 to that new subpart.

- b) The Coast Guard would limit the applicability of this new subpart to recreational vessels, as defined in 33 CFR 175.3, with propulsion machinery to clarify that the fire extinguishing equipment requirements would not apply to non-motorized sail boats, kayaks, canoes, and other human powered recreational vessels that do not require portable fire extinguishers. The fire extinguishing equipment requirements added to subpart E would be the same as in current 46 CFR subpart 25.30, but would be modified to clarify the regulatory language, update outdated information, and omit the requirement for recreational vessels to comply with NFPA 10. Instead of applying NFPA 10 and requiring monthly visual inspections, annual maintenance, and recordkeeping, we would indicate that fire extinguishers should be maintained in good and serviceable condition. Both the "good and serviceable condition" standard and the NFPA 10 requirements (monthly visual inspection, annual maintenance, and recordkeeping) exist to achieve the same result - that fire extinguishers remain in a working condition. However, the NFPA 10 requirements are very specific and prescriptive. The "good and serviceable condition" standard is goal oriented and non-prescriptive. The "good and serviceable condition" standard relieves the owners and operators of recreational vessels of the burden of following the specifics of NFPA 10 while allowing them the freedom to achieve the same result as the NFPA 10 requirements. For these reasons, the Coast Guard has opted to follow the goal-based standard to ensuring fire extinguishers remain in working condition instead

of NFPA 10's prescriptive and regimented inspection, maintenance and recordkeeping requirements for recreational vessels.

3) Update text in 33 CFR part 175, new subpart E—Fire Protection Equipment.

- a) The Coast Guard would make several small administrative changes to the text being moved from 46 CFR subpart 25.30 to new 33 CFR part 175 subpart E, to clarify the regulatory language and update outdated information. For example, we would remove reference to the no longer published COMDTINST M16714.3, and remove references to the Marine Safety Center as an approving entity for fire extinguishers as they no longer approve fire extinguishers.
- b) The Coast Guard would change the terms “motorboats” and “motor vessels,” as currently used in subpart 25.30, to more clear terms of “Recreational vessels 65 feet and less in length” and “Recreational vessels more than 65 feet in length” respectively. This change would align the language used in new subpart E with the terminology already used in 33 CFR part 175, and reinforce the subpart’s intent to apply the requirements to recreational vessels, and not all motorboats and motor vessels. It would also make clearer the distinction between the two vessel size categories, allowing readers to easily find the fire extinguishing equipment requirements appropriate for a particular type of vessel.
- c) The Coast Guard would add new language to clarify acronyms, and update cross-references to 46 CFR subpart 25.30. For example, replacing the B.H.P. acronym with “brake horse power” and updating references to clearly point towards 46 CFR instead of chapter I.

- d) The Coast Guard would modify the language moved from 46 CFR subpart 25.30 to refer to recreational vessels by model years, as opposed to contracting or manufacturing dates. The latter are applicable to commercial vessels only. This change would allow the recreational boating community to more easily identify their vessel requirements, and it would align with industry and market naming practices.
- e) Because this rule is not intended to and would not change any exceptions that already apply to recreational vessels, the Coast Guard proposes to retain all the existing recreational fire extinguishing equipment exemptions, such as those for vessels manufactured before August 22, 2016, and the fire extinguishing equipment exemptions for vessels manufactured before November 19, 1952, as provided in 46 CFR 25.30-80 and 46 CFR 25.30-90. Where we previously allowed exemptions for vessels manufactured or contracted before August 22, 2016, we would apply the same exemptions to recreational vessels with model years before 2017. Where regulations previously exempted vessels manufactured or contracted before November 19, 1952, we would apply those exemptions to recreational vessels with model years before 1953. We would also retain the exemption in 46 CFR 25.30-20(a) that allows recreational vessels less than 26 feet in length propelled by outboard motors and not carrying passengers for hire to not have to carry portable fire extinguishers if the construction of the vessel will not permit the entrapment of explosive or flammable gases or vapors.

In summary, the Coast Guard proposes separating recreational vessel fire extinguishing equipment rules from commercial vessel fire extinguishing equipment rules, and consolidating

recreational vessel-specific requirements into one part, which would not contain NFPA 10 visual inspection, annual maintenance, and recordkeeping requirements for recreational vessels. This change would affect only recreational vessels with propulsion machinery, and would not affect commercial vessels.

VI. Regulatory Analyses

The Coast Guard developed this NPRM after considering numerous statutes and Executive orders related to rulemaking. A summary of our analyses based on these statutes or Executive orders follows.

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, reducing costs, harmonizing rules, and 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 proposed rule a significant regulatory action under section 3(f) of Executive Order 12866. Accordingly, OMB has not reviewed it. OMB considers this rule to be an Executive Order 13771 deregulatory action. *See* OMB’s Memorandum “Guidance Implementing Executive Order 13771, Titled

‘Reducing Regulation and Controlling Regulatory Costs’” (April 5, 2017). An RA follows.

The Coast Guard promulgates regulations to ensure that maritime organizations and employees engage in activities that protect the environment, human, and marine life, and that reflect safe boating practices. To meet this mission, this proposed rule would correct errors resulting from the “Fire Protection” final rule (81 FR 48220), effective as of August 22, 2016. The “Fire Protection” update to the fire extinguishing equipment rules in 46 CFR subpart 25.30 (Requirements) of subchapter C (Uninspected Vessels) inadvertently applied NFPA 10 monthly visual inspection, annual maintenance, and recordkeeping requirements to both recreational and commercial vessels, which created unintended regulatory requirements for recreational vessels—the largest regulated vessel community under the Coast Guard’s purview. The proposed rule would remove the NFPA 10 recordkeeping and monthly visual inspection requirements together with the requirement for annual maintenance from the recreational vessel community, and require extinguishers be kept in good and serviceable condition. The proposed rule would not change the fire extinguishing equipment requirements for commercial vessels in 46 CFR subpart 25.30 or any other recreational vessel requirements.

Additionally, the Coast Guard proposes to correct an incongruity in our vessel safety equipment regulations by shifting recreational vessel fire extinguishing equipment requirements from 46 CFR subpart 25.30, (Fire Extinguishing Equipment) to 33 CFR part 175, new subpart E (Equipment Requirements). This would move all the recreational vessel fire extinguishing equipment rules from a commercial vessel subpart in 46 CFR subpart 25.30 to a recreational vessel section in 33 CFR part 175. This alignment would not alter the regulations for commercial vessels, but would separate commercial regulations from regulations for the recreational vessel community.

The Coast Guard considered a potential cost of this proposed rule. There is a possibility that States and territorial jurisdictions had chosen to update their statutes and regulations to incorporate NFPA 10 into their legislation or regulations. Based on available data and a thorough search of state legislative documents, the Coast Guard finds no evidence of the States and territorial jurisdictions changing their regulations to satisfy NFPA 10. Therefore, we determine that the States and territorial jurisdictions will not need to revise their regulations and incur any cost.²

There are no costs to the regulated public. The primary cost savings of this rule would be from correcting the unintended regulatory requirements of NFPA 10 inspection, maintenance, and recordkeeping requirements placed on the recreational vessel community.

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

Table 1: Summary of Impacts of the Proposed Rule

Category	Summary
Applicability	Recreational vessels are no longer required to comply with the fire extinguishing equipment requirements in 46 CFR subpart 25.30.
Affected population	11,005,841 recreational vessels with disposable fire extinguishers (50 States and 6 Territorial jurisdictions).
Costs (2016\$, 7% discount rate)	No Cost
Cost Savings	Removes NFPA 10 inspection, maintenance, and recordkeeping requirements from the recreational vessel community. Savings equate to 12 minutes per year per vessel.
Benefits	Shifts recreational vessel fire extinguishing equipment requirements from 46 CFR subpart 25.30 to 33 CFR part 175, subpart E, creating a clear distinction between fire extinguishing equipment regulations intended for commercial vessels and those intended for recreational vessels.

Affected Population

² Per Coast Guard subject matter expert review and communication with State & territorial jurisdictions.

The affected population consists of recreational vessels subject to the provisions of 46 CFR subpart 25.30 and the 50 State and 6 territorial jurisdictions. The RA performed for the “Fire Protection” final rule (81 FR 48220) used recreational vessel population data from the Coast Guard Office of Auxiliary and Boating Safety’s document titled, *2013 Recreational Boating Statistics*,³ to estimate the affected population. For this analysis, the Coast Guard uses the most recently published data from the *2016 Recreational Boating Statistics* to identify a population of 11,005,841⁴ registered motorized recreational vessels that would be affected by the fire extinguishing equipment requirements in 46 CFR subpart 25.30.

Cost Analysis

This NPRM proposes 18 changes to the fire extinguishing equipment regulations in 33 CFR part 175, subpart E, and 46 CFR subpart 25.30. These changes are summarized as follows:

- Remove recreational vessel fire extinguishing equipment regulations from 46 CFR subpart 25.30 (Fire Extinguishing Equipment).
- Move the recreational vessel fire extinguishing equipment regulations from 46 CFR subpart 25.30 to new 33 CFR part 175, subpart E. This would include new § 175.301 to 33 CFR part 175, subpart E, to specify the applicability of subpart E to recreational vessels. It would also include new §§ 175.305, 175.310, 175.315, 175.320, 175.380, and 175.390 to reflect requirements previously applied by 46 CFR subpart 25.30, but excluding those that require recreational vessel owners and operators to follow the monthly visual inspection, annual maintenance, and recordkeeping requirements of NFPA 10.

³ Recreational Boating Statistics 2013. Accessed at <https://www.uscgboating.org/assets/1/AssetManager/2013RecBoatingStats.pdf>

⁴ Recreational Boating Statistics 2016, Table 37. Accessed at <https://www.uscgboating.org/library/accident-statistics/Recreational-Boating-Statistics-2016.pdf>

Update recreational vessel fire extinguishing equipment regulations to clarify regulatory language and update outdated information. Overall, there are no costs to the regulated public associated with these 18 changes to the regulatory text. The changes and economic impacts of these changes are described in Table 2.

Table 2: Assessment of Cost Impacts of the Proposed Rule to the Regulated Public

Existing 46 CFR Part 25 Sections	Proposed 33 CFR Part 175 Sections	Description of Proposed Change	Cost Impact
<i>Definitions</i>			
§ 25.30-1 (b) & (c)	§ 175.3	Add the definition of <i>Model Year</i> to the section.	No cost.
<i>Applicability</i>			
§ 25.30-1	§ 175.301	Adopt existing text from 46 CFR 25.30-1, with new text to clarify the applicability of this subpart to recreational vessels with propulsion machinery only.	No cost.
<i>General Provisions</i>			
§ 25.30-5 (a)	§ 175.305	Adopt existing text from 46 CFR 25.30-5(a), with text edits to clarify approved equipment must be approved by the Commandant (CG-ENG-4).	No cost.
<i>Portable Fire Extinguishers and Semi-Portable Fire Extinguishing Systems</i>			
§ 25.30-5(b)	§ 175.310(a)	Adopt existing text from 46 CFR 25.30-5(b).	No cost.
§ 25.30-10(a)	§ 175.310(b)	Adopt existing text from 46 CFR 25.30-10(a), with edits removing the requirement that the extinguishers be maintained, inspected, and recorded in accordance with NFPA 10. Add new text, extracted from relevant sections of NFPA 10, requiring that fire extinguishers must accessible, have a good operating pressure, not be expired, or previously used, and be maintained in accordance with the manufacturer's instructions.	No cost.
§ 25.30-10(f)	§ 175.310(c)	Adopt text from 46 CFR 25.30-10(f), with text edits for clarification.	No cost.
§ 25.30-10(g)	§ 175.310(d)	Adopt text from 46 CFR 25.30-10(g)	No cost.

§ 25.30-10(h)	§ 175.310(e)	Adopt text from 46 CFR 25.30-10(h)(1) – 25.30-10(h)(4), with edits changing the motorboat references to recreational vessel references.	No cost.
§ 25.30-10(h)(4)(i)	§ 175.310(f)	Adopt text from 46 CFR 25.30-10(h)(4)(i), with edits changing the motorboat references to recreational vessel references.	No cost.
§ 25.30-10(j)	§ 175.310(g)	Adopt text from 46 CFR 25.30-10(j)	No cost.
<i>Fixed Fire Extinguishing Systems</i>			
§ 25.30-15(a)	§ 175.315(a)	Adopt existing text from 46 CFR 25.30-315(a) with text edits to clarify approved equipment must be approved by the Commandant (CG-ENG-4).	No cost.
§ 25.30-15(b)	§ 175.315(b)	Adopt existing text from 46 CFR 25.30-315(b)	No cost.
§ 25.30-15(c)	§ 175.315(c)	Adopt existing text from 46 CFR 25.30-315(c) with edits to update references from NFPA 13 to the 46 CFR source.	No cost.
<i>Fire Extinguishing Equipment Required</i>			
§ 25.30-20(a)	§ 175.320(a)	Adopt text from 46 CFR 25.30-20(a)(1) and 25.30-20(a)(2), with edits changing the motorboat references to recreational vessels not more than 65 feet.	No cost.
Table 25.30-20(A)(1)	Table 1 to § 175.320(a)	Adopt Table 25.30-20(A)(1) from 46 CFR 25.30-20(a), with edits changing the table numbering for clarity.	No cost.
Figure 25.30-20(A1)	Figure 1 to § 175.320(a)(2)	Adopt Figure 25.30-20(A1) from 46 CFR 25.30-20(a), with edits changing the figure numbering for clarity.	No cost.
Figure 25.30-20(A2)	Figure 2 to § 175.320(a)(2)	Adopt Figure 25.30-20(A2) from 46 CFR 25.30-20(a), with edits changing the figure numbering for clarity.	No cost.
§ 25.30-20(c)	§ 175.320(b)	Adopt text from 46 CFR 25.30-20(c)(1) – 25.30-20(c)(4), with edits changing the motor vessels references to recreational vessels over 65 feet, and text edits for clarity.	No cost.
Table 25.30-20(B)(1)	Table 1 to § 175.320(b)	Adopt Table 25.30-20(B)(1) from 46 CFR 25.30-20(b), with edits changing the table numbering for clarity.	No cost.
§ 25.30-20(b)(2)(1)	§ 175.320(b)	Adopt text from 46 CFR 25.30-20(a), with edits changing the motor vessels references to recreational vessels over 65 feet.	No cost.

§ 25.30-20(a)(3) & § 25.30-20(c)(5)	§ 175.320(c)	Combine the text from 46 CFR 25.30-20(a)(3) & 25.30-20(c)(5) into a new section that clarifies Table 1 to 46 CFR 175.320(a) and Table 1 to 46 CFR 175.320(b) contain the minimum number of extinguishers needed on a vessel	No cost.
<i>Location and Number of Fire Extinguishers Required for Vessels Constructed prior to August 22, 2016</i>			
§ 25.30-80	§ 175.380	Adopt text from 46 CFR subpart 25.30-80 with updated references to Table 1 to 46 CFR 175.320(a) and Table 1 to 46 CFR 175.320(b)	No cost.
<i>Vessels Contracted prior to November 19, 1952</i>			
§ 25.30-90	§ 175.390	Adopt text from 46 CFR 25.30-90 with updated references to the new 46 CFR 175 and text edits for clarity.	No cost.
<i>Proposed Edits to 46 CF Part 25.30</i>			
§ 25.30-1	-	Edit and reorganize paragraph for clarity.	No cost.
§ 25.30-1	-	Remove applicability to non-commercial vessels.	No cost.

Costs

The Coast Guard considered all potential costs of this proposed rule. We considered the possibility that States and territorial jurisdictions may choose to update their statutes and regulations if they had previously changed their regulations to satisfy NFPA 10. However, based on available data and a thorough search of State and territorial jurisdictions' legislative documents, the Coast Guard finds no evidence of the States and territorial jurisdictions changing their regulations to satisfy NFPA 10. Therefore, they will not incur any costs as no State or territory will need to change back their regulations.⁵

Cost Savings

The primary savings of this proposed rule stem from the correction of the unintended

⁵ Per Coast Guard subject matter expert review and communication with State & territorial jurisdictions.

regulatory requirements placed on the recreational vessel community by the “Fire Protection” rule with regards to recordkeeping and monthly visual inspection requirements associated with the type of fire extinguisher on board a recreational vessel.

NFPA 10 has specific inspection requirements for both rechargeable and non-rechargeable portable fire extinguishers. Owners of vessels with non-rechargeable (disposable) extinguishers, commonly used in the recreational vessel community, are subject to a monthly visual inspection ensuring the fire extinguisher is available and still operational and maintain records of their compliance by placing an initial in a log book as confirmation of a visual inspection. For rechargeable fire extinguishers, NFPA 10 requires an annual inspection by a qualified technician permitted by State and local authorities in addition to monthly visual inspections. Rechargeable extinguishers are not common in the 5-B size that is required for recreational boats, and must be actively sought and bought from a more industrial distributor. Rechargeable units of this size tend to be special purpose extinguishers such as carbon dioxide or clean agent extinguishers commonly used in areas such as server rooms, not on recreational boats, and come at a significantly higher price. Non-rechargeable or disposable units are intended for use by the public and are the primary type of fire extinguisher on recreational vessels. They are primarily marketed to the general public because of their low operating and maintenance costs, low upfront cost, reliability as well as the ease of care and can be purchased at retail stores. As a result, rechargeable fire extinguishers are generally purchased by commercial vessel owners and operators, while non-rechargeable units are purchased by recreational vessel owners. Therefore, we estimate the savings to recreational boaters will stem from no longer needing to perform a monthly visual inspection along with its associated minor recordkeeping requirement confirming the inspection. We estimate such monthly inspections

would take 1 minute per month to complete for an annual total of 12 minutes per fire extinguisher.⁶ Data on how many recreational vessel owners have complied with current NFPA 10 requirements since 2016 is non-existent as is data on the various labor categories of the recreational vessel owners. Therefore, while the proposed rule may reduce the regulatory burden to some recreational vessel owners, we do not have enough information on the potential scale of this reduction and consequently, do not attempt to monetize these potential cost savings. However, as mentioned above, we estimate a time savings component of approximately 12 minutes per year per fire extinguisher (1 minutes/month).⁷

Benefits

By shifting the recreational vessel fire extinguishing equipment requirements from 46 CFR subpart 25.30 to 33 CFR part 175, subpart E, this rule would create a clear distinction between fire extinguishing equipment regulations intended for commercial vessels and those intended for recreational vessels.

Alternatives

Alternative 1: Preferred Alternative

The preferred alternative would be to: 1) move the fire extinguishing equipment requirements for recreational vessels from 46 CFR subpart 25.30 to 33 CFR part 175, new subpart E; 2) separate recreational vessel fire protection regulations from commercial vessel regulations; 3) remove all NFPA 10 inspection, maintenance and recordkeeping requirements from recreational vessels; and 4) consolidate recreational vessel fire extinguishing equipment

⁶ The value of a person's recreational time is dependent on a number of factors such as income, age, and employment status. We did not have this information for owners of the recreational vessels subject to this proposed rulemaking and therefore were unable to monetize the cost savings associated with the 12 minute burden reduction. This is a 12 minute- reduction per fire extinguisher, and we estimate that 5.3 percent of the affected population of recreational vessels carry more than one fire extinguisher.

⁷ Estimate based on Coast Guard subject matter experts.

requirements into one subchapter. The preferred alternative follows the NBSAC recommendation.

Alternative 2: No-action Alternative

Under this alternative, recreational vessel fire protection rules would remain in 46 CFR subpart 25.30, and NFPA 10 would continue to apply to recreational vessels. The Coast Guard did not select this alternative because it maintains an unintended burden on recreational vessel owners and does not follow the NBSAC's recommendation.

Alternative 3: Policy Over Regulation

This alternative would create a new Coast Guard policy based on the NBSAC's recommendation that would outline fire extinguishing equipment standards. The Coast Guard did not select this option because States adopt Coast Guard regulations, not Coast Guard policy recommendations. Furthermore, it is not considered a good regulatory practice to determine shipping regulations via policy instruments. Finally, this alternative would not follow the NBSAC's recommendation.

Alternative 4: Add Exemption from NFPA 10 Requirements

Alternative 4 would add language to 46 CFR subpart 25.30 explicitly stating that NFPA 10 does not apply to recreational vessels. The Coast Guard did not select this option because this alternative would not follow the NBSAC's recommendation.

B. Small Entities

Under the Regulatory Flexibility Act, 5 U.S.C. 601-612, the Coast Guard has considered whether this proposed 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.

The proposed rule corrects the unintended regulatory requirements placed on 11,005,841 recreational vessels and would move fire extinguishing equipment requirements for recreational vessels from subpart 25.30 of part 25 in Title 46 of the CFR to a new subpart E (Fire Protection Equipment) of part 175 in Title 33 of the CFR. The Coast Guard's economic analysis concluded that these proposed changes would not impose costs on any of the recreational vessels that comprise the affected population described in this NPRM, and thus not have a cost impact on small entities that own and operate the recreational vessels. Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would 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 proposed rule would have a significant economic impact on it, please submit a comment to the docket at the address listed in the **ADDRESSES** section of this NPRM. In your comment, explain why you think it qualifies and how and to what degree this proposed rule would 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, the Coast Guard wants to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this NPRM. The Coast Guard will not retaliate against small entities that question or complain about this proposed 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 proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501-3520. While the proposed rule would remove recordkeeping requirements of NFPA 10, the Coast Guard did not account for this burden in the Collection of Information analysis performed for the "Fire Protection" final rule (81 FR 48220), which modified the Collection of Information, *Certificates of Compliance, Boiler/Pressure Vessel Repairs, Cargo Gear Records, Shipping Papers, and NFPA 10 Certificates, OMB Control Number 1625-0037*, because the Coast Guard never intended to apply these requirements to recreational vessels. Therefore, this action will not modify the existing collection of information.

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 proposed 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 follows.

It is well settled that States may not regulate in categories reserved for regulation by the Coast Guard. The Coast Guard regulates recreational vessel safety, including firefighting equipment, under the authority contained in 46 U.S.C. 4302. Chapter 43 of 46 U.S.C. contains an express preemption provision for recreational vessel safety standards. Under 46 U.S.C. 4306, a State or political subdivision of a State may not establish, continue in effect, or enforce a law or regulation establishing a recreational vessel or associated equipment performance or other safety standard, or impose a requirement for associated equipment unless: (1) the standard is identical to a Coast Guard regulation prescribed under 46 U.S.C. 4302; (2) the Coast Guard specifically provides an exemption under 46 U.S.C. 4305; or (3) the State standard regulates marine safety articles carried or used to address a hazardous condition or circumstance unique to that State (as long as the Coast Guard does not disapprove). This proposed rule would establish minimum requirements, under 46 U.S.C. 4302, for fire extinguishing equipment for recreational vessels, and therefore, the States may not issue regulations that differ from Coast Guard regulations within the categories of safety standards or equipment for recreational vessels, except in the limited circumstances identified above. Therefore, this proposed rule is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Additionally, for rules with federalism implications and preemptive effect, Executive Order 13132 specifically directs agencies to consult with State and local governments during the rulemaking process. If you believe this rule would have implications for federalism under Executive Order 13132, please contact the person listed in the **FOR FURTHER INFORMATION** section of this NPRM.

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. Although this proposed rule would not result in such an expenditure, we discuss the effects of this proposed rule elsewhere in this NPRM.

G. Taking of Private Property

This proposed rule would 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 proposed 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 proposed rule under Executive Order 13045 (Protection of Children from Environmental Health Risks and Safety Risks). This proposed rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

J. Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments), because it would 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

The Coast Guard has analyzed this proposed 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

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 proposed rule does not use technical standards. Therefore, the Coast Guard did not consider the use of voluntary consensus standards.

M. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023-01, Revision 01 and Commandant Instruction M16475.ID, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321-4370f), and have made a preliminary determination 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 preliminary Record of Environmental Consideration supporting this determination is available where indicated under the “Public Participation and Request for Comments” section of this NPRM.

This proposed rule meets the criteria for categorical exclusion (CATEX) under paragraphs L52, L54, and L57 of Table 1 in Appendix A of DHS Directive 023-01 (series). The CATEX L52 pertains to regulations concerning vessel operation safety standards; CATEX L54 pertains to regulations that are editorial or procedural, such as those updating addresses or establishing application procedures; and CATEX 57 pertains to regulations concerning manning, documentation, admeasurements, inspection, and equipping of vessels.

This proposed rule is intended to update Coast Guard regulations pertaining to fire extinguishing requirements and the associated standards used by recreational vessels. The Coast Guard seeks any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

List of Subjects

33 CFR Part 175

Fire prevention, Marine safety.

46 CFR Part 25

Fire prevention, Marine safety, Reporting and recordkeeping requirements.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 175 and 46 CFR part 25 as follows:

Title 33—Navigation and Navigable Waters

PART 175—EQUIPMENT REQUIREMENTS

1. The authority citation for part 175 continues to read as follows:

Authority: 46 U.S.C. 4302; Department of Homeland Security Delegation No. 0170.1.

2. In § 175.3, add in alphabetic order the definition of “Model year” to read as follows:

§ 175.3 Definitions.

* * * * *

Model year means the period beginning August 1 of any year and ending on July 31 of the following year. Each model year is designated by the year in which it ends.

* * * * *

3. Add new subpart E to read as follows:

Subpart E—Fire Protection Equipment

Sec.

175.301 Applicability.

175.305 General provisions.

175.310 Portable fire extinguishers and semi-portable fire extinguishing systems.

175.315 Fixed fire extinguishing systems.

175.320 Fire extinguishing equipment required.

175.380 Condition and number of fire extinguishers required for recreational vessels built before model year 2017.

175.390 Condition and number of fire extinguishers required for recreational vessels built before model year 1953.

§ 175.301 Applicability.

(a) This subpart applies to recreational vessels that are propelled or controlled by propulsion machinery.

(b) Recreational vessels constructed prior to August 22, 2016, will be deemed built before model year 2017 and must meet the requirements of 33 CFR 175.380.

(c) Recreational vessels constructed prior to November 19, 1952, will be deemed built before model year 1953 and must meet the requirements of 33 CFR 175.390.

§ 175.305 General provisions.

Where fire extinguishing equipment in this subpart is required to be of an approved type, such equipment must be approved as provided in 46 CFR subchapter Q. A listing of current and formerly approved equipment and materials may be found on the internet at: <http://cgmix.uscg.mil/equipment>. Each OCMI may be contacted for information concerning approved equipment.

§ 175.310 Portable fire extinguishers and semi-portable fire extinguishing systems.

- (a) All portable and semi-portable fire extinguishers must be of an approved type.
- (b) Portable and semi-portable fire extinguishers must be maintained in good and serviceable working condition and must—
 - (1) Be carried aboard the vessel;
 - (2) Have a pressure gauge reading or indicator in the operable range or position, if there is one;
 - (3) Not be expired or appear to have been previously used; and
 - (4) Be maintained in accordance with the manufacturer's instructions.
- (c) Vaporizing-liquid type fire extinguishers containing carbon tetrachloride, chlorobromomethane, or other toxic vaporizing liquids are not acceptable as equipment required by this subpart.
- (d) Portable or semi-portable extinguishers, which are required by their name plates to be protected from freezing, must not be located where freezing temperatures may be expected.
- (e) The use of dry chemical stored pressure fire extinguishers not fitted with pressure gauges or indicating devices, manufactured prior to January 1, 1965, is permitted on board recreational vessels if such extinguishers are maintained in good and serviceable condition. The following maintenance and inspections are required for such extinguishers:

(1) When the date on the inspection record tag on the extinguishers shows that 6 months have elapsed since the last weight check ashore, then such extinguishers are no longer accepted as meeting required maintenance conditions until they are reweighed ashore, found to be in a serviceable condition, and within required weight conditions.

(2) If the weight of the container is 1/4 ounce less than that stamped on the container, it must be serviced.

(3) If the outer seal or seals (which indicate tampering or use when broken) are not intact, the boarding officer or marine inspector will inspect such extinguishers to see that the frangible disc in the neck of the container is intact; and if such disc is not intact, the container must be serviced.

(4) If there is evidence of damage, use, or leakage, such as dry chemical powder observed in the nozzle or elsewhere on the extinguisher, the extinguisher must be serviced or replaced.

(f) Dry chemical extinguishers, stored pressure extinguishers, and fire extinguishers without pressure gauges or indicating devices, manufactured after January 1, 1965, cannot be labeled with the marine type label described in 46 CFR 162.028-4. These extinguishers, may be carried onboard recreational vessels as excess equipment, subject to paragraphs (a) and (b).

(g) Semi-portable extinguishers must be fitted with a suitable hose and nozzle, or other practicable means, so that all portions of the space concerned may be covered.

§ 175.315 Fixed fire extinguishing systems.

(a) A fixed fire extinguishing system must be of a type approved or accepted under 46 CFR part 162 when it is installed.

(b) A carbon dioxide system must be designed and installed in accordance with 46 CFR 76.15.

(c) An automatic sprinkler system must be designed and installed in accordance with 46 CFR 25.30-15(c).

§ 175.320 Fire extinguishing equipment required.

(a) Recreational vessels 65 feet or less in length.

(1) Recreational vessels 65 feet or less in length must carry at least the minimum number of portable fire extinguishers set forth in Table 1 to § 175.320(a). Vessels less than 26 feet in length, propelled by outboard motors, are not required to carry portable fire extinguishers if the construction of the vessels will not permit the entrapment of explosive or flammable gases or vapors.

Table 1 to § 175.320(a)

Length (feet)	Minimum number of 5-B portable fire extinguishers required ¹	
	If no fixed fire extinguishing system in machinery space	If fixed fire extinguishing system in machinery space
Under 16	1	0
16 or more, but less than 26	1	0
26 or more, but less than 40	2	1
40 or more, but not more than 65	3	2

¹One 20-B portable fire extinguisher may be substituted for two 5-B portable fire extinguishers.

(2) Figure 1 to § 175.320(a)(2) illustrates the conditions under which fire extinguishers are required to be carried on board. Figure 2 to § 175.320(a)(2) illustrates conditions that do not, in themselves, require that fire extinguishers be carried.

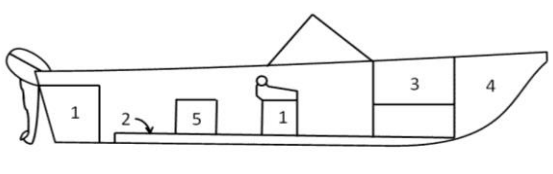


Figure 1 to § 175.320(a)(2)

Note 1 to Figure 1 to § 175.320(a)(2). Fire extinguishers are required if any one or more of the following conditions exist (numbers identifying conditions are the same as those placed in Figure 1 to § 175.320(a)(2)):

1. Closed compartment under thwarts and seats wherein portable fuel tanks may be stored.
2. Double bottoms not sealed to the hull or which are not completely filled with flotation material.
3. Closed living spaces.
4. Closed stowage compartments in which combustible or flammable materials are stowed.
5. Permanently installed fuel tanks.

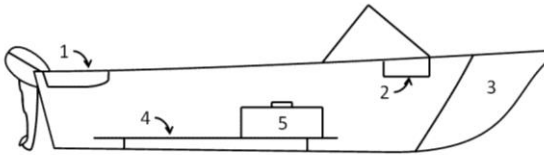


Figure 2 to § 175.320(a)(2)

Note 1 to Figure 2 to § 175.320(a)(2). The following conditions do not, in themselves, require that fire extinguishers be carried (numbers identifying conditions are the same as those placed in Figure 2 to § 175.320(a)(2)):

1. Bait wells.
2. Glove compartments.
3. Buoyant flotation material.
4. Open slatted flooring.
5. Ice chests.

(b) Recreational vessels more than 65 feet in length.

(1) Recreational vessels more than 65 feet in length must carry at least the minimum

number of portable fire extinguishers specified for their tonnage as set forth in Table 1 to § 175.320(b).

Table 1 to § 175.320(b)

Gross tonnage—		Minimum number of 20-B portable fire extinguishers
More than	Not more than	
-	50	1
50	100	2
100	500	3
500	1,000	6
1,000	-	8

(2) In addition to the portable fire extinguishers required by Table 1 to § 175.320(b), the following fire extinguishing equipment must be fitted in the machinery space:

(i) One 20-B fire extinguisher must be carried for each 1,000 brake horsepower of the main engines or fraction. However, not more than six such extinguishers are required to be carried.

(ii) On recreational vessels of more than 300 gross tons, either one 160-B semi-portable fire extinguishing system must be fitted, or alternatively, a fixed fire extinguishing system must be fitted in the machinery space.

(3) The frame or support of each 160-B semi-portable fire extinguisher required by paragraph (b)(2)(ii) of this section must be welded or otherwise permanently attached to a bulkhead or deck.

(4) If an approved semi-portable fire extinguisher has wheels, it must be securely stowed when not in use to prevent it from rolling out of control under heavy sea conditions.

(c) Extinguishers with larger numerical ratings or multiple letter designations. Extinguishers with larger numerical ratings or multiple letter designations may be used to meet the requirements of Table 1 to § 175.320(a) and Table 1 to § 175.320(b).

§ 175.380 Condition and number of fire extinguishers required for recreational vessels built before model year 2017.

Recreational vessels with a model year between 1953 and 2017 must meet the following requirements:

(a) Previously installed extinguishers with extinguishing capacities that are less than what is required in Table 1 to § 175.320(a) or Table 1 to § 175.320(b) of this subpart need not be replaced but must be maintained in good condition.

(b) All extinguishers installed after August 22, 2016, must meet the applicable requirements in §§ 175.305 through 175.320.

§ 175.390 Condition and number of fire extinguishers required for recreational vessels built before model year 1953.

Recreational vessels built before model year 1953 must meet the applicable number and general type of equipment provisions of §§ 175.305 through 175.320. Existing items of equipment and installations previously approved but not meeting the applicable requirements for type approval may be continued in service provided they are in good condition. All new installations and replacements must meet the requirements of §§ 175.305 through 175.320.

Title 46—Shipping

PART 25—REQUIREMENTS

4. The authority citation for part 25 continues to read as follows:

Authority: 33 U.S.C. 1903(b); 46 U.S.C. 2103, 3306, 4102, 4302; Department of Homeland Security Delegation No. 0170.1(II)(77), (92)(a), 92(b).

5. Revise § 25.30-1 to read as follows:

§ 25.30-1 Applicability.

(a) This subpart applies to all vessels, except for recreational vessels as defined in 33 CFR 175.3.

(b) All vessels, except recreational vessels, contracted for before August 22, 2016, and after November 19, 1952, must meet the requirements of 46 CFR 25.30-80.

(c) All vessels, except recreational vessels, contracted for before November 19, 1952, must meet the requirements of 46 CFR 25.30-90.

Dated: May 6, 2019.

RADM John P. Nadeau
Assistant Commandant for Prevention Policy
U.S. Coast Guard.
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