

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

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

Statutory Mandate

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

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

Discussion of Interim Rule

This Rule Would Apply to Most Towing Vessels

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

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

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

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

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

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

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

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

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

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

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