

SUBCHAPTER M—TOWING VESSELS

PART 136—CERTIFICATION

Subpart A—General

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Subpart A—General

§ 136.100 Purpose.

This part sets out the applicability for this subchapter and describes the requirements for obtaining and renewing a Certificate of Inspection (COI).

§ 136.105 Applicability.

(a) This subchapter is applicable to all U.S.-flag towing vessels as defined in § 136.110 engaged in pushing, pulling, or hauling alongside, except—

(1) A vessel less than 26 feet (7.92 meters) in length measured from end to end over the deck (excluding the sheer), unless that vessel is pushing,

pulling, or hauling a barge that is carrying oil or hazardous material in bulk;

(2) A vessel engaged in one or more of the following:

- (i) Assistance towing as defined in § 136.110;
- (ii) Towing recreational vessels for salvage; or

- (iii) Transporting or assisting the navigation of recreational vessels within and between marinas and marina facilities, within a limited geographic area, as determined by the local Captain of the Port (COTP);

- (3) A workboat operating exclusively within a worksite and performing intermittent towing within the worksite;

- (4) A seagoing towing vessel of 300 gross tons or more subject to the provisions of subchapter I of this chapter;

- (5) A vessel inspected under other subchapters of this chapter that may perform occasional towing;

- (6) A public vessel as defined in 46 U.S.C. 2101;

- (7) A vessel that has surrendered its COI and is laid up, dismantled, or otherwise out of service; and

- (8) A propulsion unit used for the purpose of propelling or controlling the direction of a barge where the unit is controlled from the barge, is not normally manned, and is not utilized as an independent vessel.

(b) [Reserved]

§ 136.110 Definitions.

As used in this subchapter:

ABS Rules means the standards developed and published by the American Bureau of Shipping regarding the design, construction and certification of commercial vessels.

Accommodation space means any:

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

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(11) A similar space open to individuals.

Anniversary date means the day and the month of each year that corresponds to the date of expiration on the COI or Towing Safety Management System (TSMS) Certificate.

Approval series means the first six digits of a number assigned by the Coast Guard to approved equipment. Where approval is based on a subpart of 46 CFR chapter I, subchapter Q, the approval series corresponds to the number of the subpart. A list of approved equipment, including all of the approval series, is available at <http://cgmx.uscg.mil/Equipment/EquipmentSearch.aspx>.

Assistance towing means towing a disabled vessel for consideration as defined in 46 U.S.C. 2101.

Audit means a systematic, independent, and documented examination to determine whether activities and related results comply with a vessel's TSMS, or with another applicable Safety Management System (SMS), and whether these planned arrangements are implemented suitably to achieve stated objectives. This examination includes a thorough review of appropriate reports, documents, records, and other objective evidence to verify compliance with applicable requirements.

(1) The audit may include, but is not limited to:

- (i) Examining records;
- (ii) Asking responsible persons how they accomplish their assigned duties;
- (iii) Observing persons performing specific tasks within their assigned duties;
- (iv) Examining equipment to ensure proper maintenance and operation; and
- (v) Checking training records and work environments.

(2) The audit may be limited to the random selection of a representative sampling throughout the system that presents the auditor with sufficient, objective evidence of system compliance.

Authorized classification society means a recognized classification society that has been delegated the authority to conduct certain functions and certifications on behalf of the Coast Guard.

Berthing space means a space that is intended to be used for sleeping, and is

provided with installed bunks and bedding.

Bollard pull means the maximum static pulling force that a towing vessel can exert on another vessel or on an object when its propulsion engines are applying thrust at maximum horsepower.

Change in ownership means any change resulting in a change in the day-to-day operational control of a third-party organization (TPO) that conducts audits and surveys, or a change that results in a new entity holding more than 50 percent of the ownership of the TPO.

Class Rules means the standards developed and published by a classification society regarding the design, construction, and certification of commercial vessels.

Coastwise means a route that is not more than 20 nautical miles offshore on:

- (1) Any ocean;
- (2) The Gulf of Mexico;
- (3) The Caribbean Sea;
- (4) The Bering Sea;
- (5) The Gulf of Alaska; or
- (6) Such other similar waters as may be designated by a Coast Guard District Commander.

Cold water means water where the monthly mean low water temperature is normally 15 degrees Celsius (59 degrees Fahrenheit) or less.

Commandant means the Commandant of the U.S. Coast Guard or an authorized representative of the Commandant of the U.S. Coast Guard.

Conflict of interest means a conflict between an individual's or an organization's private interests and the interests of another party they are providing a service to or for, including when acting in a capacity which serves the public good.

Crewmember means crewmember as defined in 46 CFR 16.105.

Deficiency means a failure to meet the minimum requirements of the vessel inspection laws or regulations.

Disabled vessel means a vessel that needs assistance, whether docked, moored, anchored, aground, adrift, or under way, but does not mean a barge or any other vessel not regularly operated under its own power.

Downstreaming means a procedure in which a towing vessel moves downstream with the current in order to approach and land squarely on another object, such as a fleet, a dock, or another tow.

Drydock examination means hauling out a vessel or placing a vessel in a drydock or slipway for an examination of all accessible parts of the vessel's underwater body and of all through-hull fittings and appurtenances.

Electronic position fixing device means a navigation receiver that meets the requirements of 33 CFR 164.41.

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

Essential system means a system that is required to ensure a vessel's survivability, maintain safe operation, control the vessel, or to ensure safety of onboard personnel, including:

- (1) Systems for:
 - (i) Detection or suppression of fire;
 - (ii) Emergency dewatering or ballast management;
 - (iii) Navigation;
 - (iv) Internal and external communication;
 - (v) Vessel control, including propulsion, steering, maneuverability and their vital auxiliaries;
 - (vi) Emergency evacuation and abandonment;
 - (vii) Lifesaving; and
 - (viii) Control of a tow;
- (2) Any critical system identified in a SMS compliant with the International Safety Management (ISM) Code requirements of 33 CFR part 96; and
- (3) Any other marine engineering system identified in an approved TSMS or identified by the cognizant Officer in Charge, Marine Inspection (OCMI) as essential to the vessel's survival, ability to maintain safe operation, ability to control the vessel, or to ensure the safety of onboard personnel.

Excepted vessel means a towing vessel that is subject to this subchapter but is excepted from certain provisions contained within this subchapter. An excepted vessel is:

- (1) Used solely:
 - (i) Within a limited geographic area, as defined in this section;

(ii) For harbor-assist, as defined in this section; or

(iii) For response to an emergency or a pollution event; or

(2) Excepted by the cognizant OCMI for purposes of some or all of the requirements in §§ 142.315 through 142.330, 143.235, 143.265, and subpart C of part 143 of this subchapter, based on consideration of those requirements and on reasons submitted by the vessel owner or managing operator as to why the vessel does not need to meet these requirements for the safe operation of the vessel.

Excursion party means a temporary operation not permitted by the vessel's COI. It is typically recreational in nature and 1 day or less in duration.

Existing towing vessel means a towing vessel, subject to inspection under this subchapter, that is not a new towing vessel, as defined in this section.

External audit means an audit conducted by a party with no direct affiliation to the vessel, owner, or managing operator being audited.

External survey program means a survey program conducted by a party with no direct affiliation to the vessel, owner, or managing operator being surveyed.

Fixed fire-extinguishing system means:

(1) A carbon dioxide system that meets the requirements of 46 CFR subpart 76.15 and 46 CFR 78.47-9 and 78.47-11, and that is approved by the Commandant;

(2) A clean agent system that satisfies the requirements in 46 CFR subpart 95.16 and in 46 CFR 97.37-9, and is approved by the Commandant; or

(3) A manually operated, water mist system that satisfies NFPA 750 (incorporated by reference, see § 136.112) and is approved by the Commandant.

Fleeting area means a limited geographic area, as determined by the local COTP, where individual barges are moored or assembled to make a tow. These barges are not in transport, but are temporarily marshaled and waiting for pickup by different towing vessels that will transport them to various destinations.

Galley means a space containing appliances with cooking surfaces that

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may exceed 121 degrees Celsius (250 degrees Fahrenheit) such as ovens, griddles, and deep fat fryers.

Great Lakes means a route on the waters of any of the Great Lakes and of the St. Lawrence River as far east as a straight line drawn from Cap de Rosiers to West Point, Anticosti Island, and west of a line along the 63rd meridian from Anticosti Island to the north shore of the St. Lawrence River.

Gross tons means the gross ton measurement of the vessel under 46 U.S.C. Chapter 145, Regulatory Measurement. For a vessel measured under only 46 U.S.C. Chapter 143, Convention Measurement, the vessel's gross tonnage measured under 46 U.S.C. Chapter 143 is used to apply all thresholds expressed in terms of gross tons.

Harbor of safe refuge means a port, inlet, or other body of water normally sheltered from heavy seas by land, and in which a vessel can navigate and safely moor. The suitability of a location as a harbor of safe refuge will be determined by the cognizant OCMI, and varies for each vessel, dependent on the vessel's size, maneuverability, and mooring gear.

Harbor-assist means the use of a towing vessel during maneuvers to dock, undock, moor, or unmoor a vessel, or to escort a vessel with limited maneuverability.

Horsepower means the horsepower stated on the vessel's COI, which is the sum of the manufacturer's listed brake horsepower for all installed propulsion engines.

Inland waters means the navigable waters of the United States shoreward of the Boundary Lines as described in 46 CFR part 7, excluding the Great Lakes and, for towing vessels, excluding the Western Rivers.

Internal Audit means an audit that is conducted by a party that has a direct affiliation to the vessel, owner, or managing operator being audited.

Internal survey program means a survey program that is conducted by a party which has a direct affiliation to the vessel, owner, or managing operator being surveyed.

International voyage means a voyage between a country to which the International Convention for Safety of Life at Sea, 1974, as amended (SOLAS) ap-

plies and a port outside that country. A country, as used in this definition, includes every territory for the international relations of which a contracting government to the Convention is responsible or for which the United Nations is the administering authority. For the United States, the term "territory" includes the Commonwealth of Puerto Rico, all possessions of the United States, and all lands held by the United States under a protectorate or mandate. For the purposes of this subchapter, vessels are not considered as being on an "international voyage" when solely navigating the Great Lakes and the St. Lawrence River as far east as a straight line drawn from Cap des Rosiers to West Point, Anticosti Island and, on the north side of Anticosti Island, the 63rd meridian.

Lakes, bays, and sounds means a route on any of the following waters:

(1) A lake other than the Great Lakes.

(2) A bay.

(3) A sound.

(4) Such other similar waters as may be designated by the cognizant Coast Guard District Commander.

Length means the horizontal distance measured from end to end over the deck, excluding the sheer. Fittings and attachments are not included in the length measurement.

Length between perpendiculars or *LBP* means the horizontal distance measured between perpendiculars taken at the forward-most and after-most points on the waterline corresponding to the deepest operating draft. For a vessel that has underwater projections extending forward of the forward-most point or aft of the after-most point on the deepest waterline of the vessel, the Commanding Officer, U.S. Coast Guard Marine Safety Center, may include the length or a portion of the length of the underwater projections in the value used in the LBP for the purposes of this subchapter. The length, or a portion of the length, of projections that contribute more than 2 percent of the underwater volume of the vessel is normally added to the actual LBP.

Limited coastwise means a route that is not more than 20 nautical miles from a harbor of safe refuge, as defined in this section.

Limited geographic area means a local area of operation as determined by the local COTP. This area is usually within a single harbor or port.

Machinery space means any enclosed space that either contains an installed internal combustion engine, machinery, or systems that would raise the ambient temperature above 45 degrees Celsius (113 degrees Fahrenheit) in all environments the vessel operates in.

Major conversion means a conversion of a vessel that:

- (1) Substantially changes the dimensions or carrying capacity of the vessel;
- (2) Changes the type of the vessel;
- (3) Substantially prolongs the life of the vessel; or
- (4) Otherwise so changes the vessel that it is essentially a new vessel, as determined by the Commandant.

Major non-conformity means a non-conformity that poses a serious threat to personnel, vessel safety, or the environment, and requires immediate corrective action.

Managing operator means an organization or person, such as the manager or the bareboat charterer of a vessel, who has assumed the responsibility for operation of the vessel from the vessel owner and who, on assuming responsibility, has agreed to take over all the duties and responsibilities imposed by this subchapter.

Nationally recognized testing laboratory or *NRTL* means an organization that the Occupational Safety and Health Administration (OSHA) has recognized as meeting the requirements in 29 CFR 1910.7. These requirements are for the capability, control programs, complete independence, and reporting and complaint-handling procedures to test and certify specific types of products for workplace safety. This means, in part, that an organization must have the necessary capability both as a product safety testing laboratory and as a product certification body to receive OSHA recognition as an NRTL.

New towing vessel means a towing vessel, subject to inspection under this subchapter, that:

- (1) Had its keel laid or was at a similar stage of construction on or after July 20, 2017; or

(2) Underwent a major conversion that was initiated on or after July 20, 2017.

Non-conformity means a situation where objective evidence indicates that a specified SMS requirement is not fulfilled.

Objective evidence means quantitative or qualitative information, records, or statements of fact pertaining to safety or to the existence and implementation of an SMS element, which is based on observation, measurement, or testing that can be verified. This may include, but is not limited to, towing gear equipment certificates and maintenance documents, training records, repair records, Coast Guard documents and certificates, surveys, classification society reports, or TPO records.

Oceans means a route that is more than 20 nautical miles offshore on any of the following waters:

- (1) Any ocean.
- (2) The Gulf of Mexico.
- (3) The Caribbean Sea.
- (4) The Bering Sea.
- (5) The Gulf of Alaska.

(6) Such other similar waters as may be designated by the cognizant Coast Guard District Commander.

Officer in Charge, Marine Inspection or *OCMI* means an officer of the Coast Guard designated as such by the Coast Guard and who, under the direction of the Coast Guard District Commander, is in charge of a marine inspection zone, described in 33 CFR part 3, for the performance of duties with respect to the inspection, enforcement, and administration of vessel safety and navigation laws and regulations. The "cognizant OCMI" is the OCMI who has immediate jurisdiction over a vessel for the purpose of performing these duties.

Officer in charge of a (or the) navigational watch means the same as in 46 CFR 10.107.

Oil or hazardous material in bulk, as used in this subchapter, means that the towing vessel tows, pushes, or hauls alongside a tank barge or barges certificated to carry cargoes under subchapters D or O of this chapter.

Operating station means a steering station on the vessel, or the barge being towed or pushed, from which the vessel is normally navigated.

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Owner means the owner of a vessel, as identified on the vessel's certificate of documentation or state registration.

Persons in addition to the crew mean any people onboard the vessel, including passengers, who are not a crew member.

Policy means a specific statement of principles or a guiding philosophy that demonstrates a clear commitment by management, or a statement of values or intentions that provide a basis for consistent decision making.

Power and lighting circuit means a branch circuit as defined in Article 100 of NFPA's National Electrical Code (NEC) (incorporated by reference, see § 136.112) that serves any essential system, distribution panel, lighting, motor or motor group, or group of receptacles. Where multiple loads are served, the circuit is considered to be the conductor run that will carry the current common to all the loads. "Power limited circuit" conductors under Article 725 of the NEC and "instrumentation" conductors under Article 727 of the NEC are not considered to be power and lighting circuits.

Pressure vessel, fired or unfired, means a closed tank or cylinder containing gas, vapor, or liquid, or a combination thereof, under pressure greater than atmospheric pressure.

Procedure means a specification of a series of actions or operations that must be executed in the same manner in order to uniformly comply with applicable policies.

Protected waters means sheltered waters presenting no special hazards, such as most rivers, harbors, and lakes, and that is not determined to be exposed waters or partially protected waters by the cognizant OCMI.

Propulsor means a device (e.g., propeller or water jet) that imparts force to a column of water in order to propel a vessel, together with any equipment necessary to transmit the power from the propulsion machinery to the device (shafting, gearing, etc.).

Recognized classification society means a classification society recognized by the Coast Guard in accordance with part 8 of this chapter.

Replacement in kind means replacement of equipment or components that have the same technical specifications

as the original item and provide the same service. If the replacement item upgrades the system in any way, the change is not a replacement in kind.

Rescue boat means a boat designed to rescue persons in distress and to marshal survival craft.

Rivers means a route on any river, canal, or other similar body of water designated by the cognizant OCMI.

Safety Management System or *SMS* means a structured and documented system that enables personnel involved in vessel operations or management, as identified in the SMS, to effectively implement the safety and environmental protection requirements of this subchapter, and is routinely exercised and audited.

Skiff means a small auxiliary boat carried on board a towing vessel.

Survey means an examination of the vessel, including its systems and equipment, to verify compliance with applicable regulations, statutes, conventions, and treaties.

Terminal gear means the additional equipment or appurtenances at either end of the hawser or tow cable that connects the towing vessel and its tow together. Terminal gear may include such items as winches, thimbles, chafing gear, shackles, pendants, or bridles.

Third-party organization or *TPO* means an organization approved by the Coast Guard to conduct independent verifications to assess whether towing vessels or their TSMSs comply with applicable requirements contained in this subchapter.

Tow means the barge(s), vessel(s), or object(s) being pulled, pushed, or hauled alongside a towing vessel.

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

Towing Safety Management System or *TSMS* means an SMS for a towing vessel as described in part 138 of this subchapter.

Towing vessel record or *TVR* means a book, notebook, or electronic record used to document events as required by this subchapter.

Unsafe condition means a major non-conformity observed on board a vessel,

or an incident that would cause the owner or managing operator to request a permit to proceed from the Coast Guard.

Unsafe practice means a habitual or customary action or method, or a single action, that creates a significant risk of harm to life, property, or the marine environment, or that contravenes a recognized standard of care contained in law; regulation; applicable international convention; or international, national, or industry consensus standard.

Warm water means water where the monthly mean low water temperature is normally more than 15 degrees Celsius (59 degrees Fahrenheit).

Western Rivers means the Mississippi River, its tributaries, South Pass, and Southwest Pass, to the navigational demarcation lines dividing the high seas from harbors, rivers, and other inland waters of the United States, and the Port Allen-Morgan City Alternate Route, and that part of the Atchafalaya River above its junction with the Port Allen-Morgan City Alternate Route including the Old River and the Red River, and those waters specified in 33 CFR 89.25 and 89.27, and such other, similar waters as are designated by the COTP.

Workboat means a vessel that pushes, pulls, or hauls alongside within a worksite.

Worksite means an area specified by the cognizant OCMI within which workboats are operated over short distances for moving equipment in support of dredging, construction, maintenance, or repair work. A worksite may include shipyards, owner's yards, or lay-down areas used by marine construction projects. This definition does not include the movement of barges carrying oil or hazardous material in bulk.

Work space means any area on the vessel where the crew may be present while on duty and performing their assigned tasks.

§ 136.112 Incorporation by reference.

(a) Certain material is incorporated by reference into this subchapter with the approval of the Director of the Federal Register under 5 U.S.C 552(a) and 1 CFR part 51. To enforce any edition

other than that specified in this section, the Coast Guard must publish a document in the FEDERAL REGISTER and the material must be available to the public. All approved material is available for inspection at the U.S. Coast Guard, Office of Design and Engineering Standards (CG-ENG), 2703 Martin Luther King Jr. Avenue SE., Stop 7509, Washington, DC 20593-7509, and is available from the sources listed below. It is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030 or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.

(b) American Boat and Yacht Council (ABYC), 613 Third Street, Suite 10, Annapolis, MD 21403, 410-990-4460, <http://www.abycinc.org/>.

(1) E-11 (2003)—AC and DC Electrical Systems on Boats, dated July 2003, IBR approved for §143.520(a) of this subchapter.

(2) H-2 (2000)—Ventilation of Boats Using Gasoline, dated July 2000, IBR approved for §143.520(a) of this subchapter.

(3) H-22 (2005)—Electric Bilge Pump Systems, dated July 2005, IBR approved for §143.520(a) of this subchapter.

(4) H-24 (2007)—Gasoline Fuel Systems, dated July 2007, IBR approved for §143.520(a) of this subchapter.

(5) H-25 (2003)—Portable Gasoline Fuel Systems, reaffirmed July 2003, IBR approved for §§143.265(b) and 143.520(a) of this subchapter.

(6) H-32 (2004)—Ventilation of Boats Using Diesel Fuel, dated July 2004, IBR approved for §143.520(a) of this subchapter.

(7) H-33 (2005)—Diesel Fuel Systems, dated July 2005, IBR approved for §§143.265(e) and 143.520(a) of this subchapter.

(8) P-1 (2002)—Installation of Exhaust Systems for Propulsion and Auxiliary Engines, dated July 2002, IBR approved for §§143.520(a) and 144.415 of this subchapter.

(9) P-4 (2004)—Marine Inboard Engines and Transmissions, dated July 2004, IBR approved for §143.520(a) of this subchapter.

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(c) American Bureau of Shipping (ABS), ABS Plaza, 16855 Northchase Drive, Houston, TX 77060, 281-877-5800, <http://www.eagle.org>.

(1) Rules for Building and Classing Steel Vessels for Service on Rivers and Intracoastal Waterways, 2007, IBR approved for §§143.515(a), 143.540(b), 143.550(a), 143.580(b), and 144.205(a) of this subchapter.

(2) Rules for Building and Classing Steel Vessels Under 90 Meters (295 Feet) in Length, 2006, including Supplement to Part 1 (dated January 1, 2008) and Corrigenda Notices 1 to 13 (in effect as of July 1, 2010), IBR approved for §§143.515(a), 143.540(a), 143.545(b), 143.550(a), 143.555(b), 143.580(a), 143.600, and 144.205(a) of this subchapter.

(d) American Society for Quality (ASQ), Quality Press, P.O. Box 3005, Milwaukee, WI 53201-3005, 800-248-1946, <http://asq.org/>.

(1) ANSI/ISO/ASQ Q9001-2000, Quality management systems—Requirements, approved December 13, 2000, IBR approved for §§138.310(d), 139.120(d) and 139.130(b) of this subchapter.

(2) [Reserved]

(e) FM Approvals, P.O. Box 9102, Norwood, MA 02062, 781-440-8000, <http://www.fmglobal.com/>.

(1) Approval Standard for Storage Cabinets (Flammable and Combustible liquids), Class Number 6050 (Standard 6050), dated December 1996, IBR approved for §142.225(c) of this subchapter.

(2) [Reserved]

(f) International Maritime Organization (IMO), Publications Section, 4 Albert Embankment, London SE1 7SR, United Kingdom, +44 (0)20 7735 7611, <http://www.imo.org/>.

(1) Resolution A.520(13)—Code of Practice for the Evaluation, Testing and Acceptance of Prototype Novel Life-saving Appliances and Arrangements, adopted November 17, 1983, IBR approved for §141.225(c) of this subchapter.

(2) Resolution A.658(16)—Use and Fitting of Retro-Reflective Materials on Life-saving Appliances, adopted October 19, 1989, IBR approved for §141.340(f) of this subchapter.

(3) Resolution A.688(17)—Fire Test Procedures For Ignitability of Bedding Components, adopted November 6, 1991,

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IBR approved for §144.430(b) of this subchapter.

(4) Resolution A.760(18)—Symbols Related to Life-Saving Appliances and Arrangements, adopted November 4, 1993, IBR approved for §141.340(h) of this subchapter.

(5) International Convention for the Safety of Life at Sea, 1974, as amended (SOLAS), Consolidated Edition (including Erratum), 2009, IBR approved for §§136.115(b), 141.105(b) and (c), and 142.205(a) of this subchapter.

(g) International Organization for Standardization (ISO), Case Postal 56, CH-1211 Geneva 20, Switzerland, +41 22 749 01 11, <http://www.iso.org/>.

(1) ISO 9001:2008(E)—International Standard: Quality management systems—Requirements, Fourth edition, dated November 15, 2008 (corrected version dated July 15, 2009), IBR approved for §§138.310(d) and 139.130(b) of this subchapter.

(2) ISO 14726:2008(E)—International Standard: Ships and marine technology—Identification colours for the content of piping systems, First edition, dated May 1, 2008, IBR approved for §143.250(e) of this subchapter.

(h) National Fire Protection Association (NFPA), 1 Batterymarch Park, Quincy, MA 02169, 800-344-3555, <http://www.nfpa.org/>.

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

(2) NFPA 70—National Electrical Code (NEC), 2002 Edition, effective August 2, 2001, IBR approved for §§136.110, 143.555(b), and 143.565(b) of this subchapter.

(3) NFPA 302—Fire Protection Standard for Pleasure and Commercial Motor Craft, 1998 Edition, IBR approved for §§143.265(e) and 144.415 of this subchapter.

(4) NFPA 306—Standard for the Control of Gas Hazards on Vessels, 2014 Edition, effective June 17, 2013, IBR approved for §140.665(a) of this subchapter.

(5) NFPA 750—Standard on Water Mist Fire Protection Systems, 2006 Edition, effective February 16, 2006, IBR approved for §136.110.

(6) NFPA 1971—Standard on Protective Ensembles for Structural Fire-

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Fighting and Proximity Fire-Fighting, 2007 Edition, effective August 17, 2006, IBR approved for § 142.226(a) of this subchapter.

(i) Society of Automotive Engineers (SAE), 400 Commonwealth Drive, Warrendale, PA 15096, 724-776-4841, <http://www.sae.org/>.

(1) ANSI/SAE Z 26.1-1996, American National Standard for Safety Glazing Materials for Glazing Motor Vehicles and Motor Vehicle Equipment Operating on Land Highways—Safety Standard, approved August 11, 1997, IBR approved for § 144.905(e) of this subchapter.

(2) SAE J1475 Revised JUN96—Hydraulic Hose Fitting for Marine Applications, revised June 1996, IBR approved for § 143.265(d) of this subchapter.

(3) SAE J1942 Revised APR2007—Hose and Hose Assemblies for Marine Applications, revised April 2007, IBR approved for § 143.265(d) of this subchapter.

(j) UL (formerly Underwriters Laboratories, Inc.), 12 Laboratory Drive, Research Triangle Park, NC 27709, 919-549-1400, <http://www.ul.com/>.

(1) UL 217—Standard for Safety for Single and Multiple Station Smoke Alarms, Sixth Edition, dated August 25, 2006 (including revisions through November 20, 2012), IBR approved for § 142.330(b) of this subchapter.

(2) UL 1104—Standards for Safety for Marine Navigation Lights, Second Edition, dated October 29, 1998, IBR approved for § 143.415(a) of this subchapter.

(3) UL 1275—Standard for Safety for Flammable Liquid Storage Cabinets, Third Edition, dated June 30, 2005 (including revisions through February 26, 2010), IBR approved for § 142.225(c) of this subchapter.

[81 FR 40101, June 20, 2016, as amended by USCG-2017-1060, 83 FR 8180, Feb. 26, 2018]

§ 136.115 Equivalents.

(a) The Coast Guard may approve any arrangement, fitting, appliance, apparatus, equipment, calculation, information, or test that provides a level of safety equivalent to that established by any specific provision of this subchapter. Submit requests for approval to the Coast Guard via the cognizant

OCMI. The Marine Safety Center may require engineering evaluations and tests to verify the equivalence.

(b) The Coast Guard may accept compliance with the provisions of SOLAS applicable to the vessel's size and route (incorporated by reference, see § 136.112), as an equivalent to specific requirements of this subchapter. Submit requests for a determination of equivalency for a particular vessel to the Coast Guard via the cognizant OCMI.

(c) Alternative compliance arrangement provisions related to SMSs are contained in § 138.225 of this subchapter.

(d) Alternate compliance arrangements must be documented within the TSMS applicable to the vessel.

§ 136.120 Special consideration.

Based on a review of relevant information and on the TSMS applicable to the vessel, the cognizant OCMI who issues the COI may give special consideration to authorizing departures from specific requirements, when unusual circumstances or arrangements warrant such departures and when an equivalent level of safety is provided.

§ 136.130 Options for documenting compliance to obtain a Certificate of Inspection.

(a) There are two options for documenting compliance with the requirements in this subchapter to obtain a COI:

(1) The Coast Guard option, in which all inspections of the towing vessel are conducted by the Coast Guard, as discussed in § 136.210 and parts 137 and 140 through 144 of this subchapter; or

(2) The TSMS option, as discussed in § 136.210, and in parts 137 through 144 of this subchapter.

(b) Regardless of the option chosen, the Coast Guard is responsible for issuing a towing vessel COI, and may board a vessel at any time to verify compliance and take appropriate action.

(c) An owner or managing operator choosing the Coast Guard option may use a management system, vessel operations manual, towing vessel record (TVR), or logbook to meet this subchapter's recordkeeping requirements.

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(d) When submitting an application for inspection, the owner or managing operator must specify on the application which option he or she chooses for each particular towing vessel. Owners or managing operators may choose different options for the individual vessels within their fleets.

(e) Requests to change options during the period of validity of an existing COI must be accompanied by an application to the OCMI for a new COI. If the requirements for the new option are met, the OCMI will issue the vessel a new COI.

§ 136.172 Temporary compliance for existing towing vessels.

An existing towing vessel subject to this subchapter will remain subject to Coast Guard regulations applicable to the vessel on July 19, 2016 until either July 20, 2018 or the date the vessel obtains a COI, whichever date is earlier.

§ 136.175 Approved equipment.

Where equipment in this subchapter is required to be of an approved type, such equipment requires the specific approval of the Coast Guard. A list of approved equipment and materials may be found online at <http://cgmix.uscg.mil/Equipment/EquipmentSearch.aspx>. Any OCMI may be contacted for information concerning approved equipment and materials.

§ 136.180 Appeals.

Any person directly affected by a decision or action taken under this subchapter, by or on behalf of the Coast Guard, may appeal in accordance with 46 CFR 1.03.

Subpart B—Certificate of Inspection

§ 136.200 Certificate required.

(a) A towing vessel may not be operated without having onboard a valid COI issued by the Coast Guard as required by § 136.202.

(b) Each towing vessel certificated under the provisions of this subchapter must be in full compliance with the terms of the COI.

(c) If necessary to prevent the delay of the vessel, the Coast Guard may issue a temporary COI to a towing ves-

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sel, pending the issuance and delivery of the permanent COI. The temporary COI must be carried in the same manner as the regular COI and is equivalent to the permanent COI that it represents.

(d) A towing vessel on a foreign voyage between a port in the United States and a port in a foreign country whose COI expires during the voyage may lawfully complete the voyage without a valid COI, provided the voyage is completed within 30 days of expiration, and provided that the COI did not expire within 15 days of sailing on the foreign voyage from a U.S. port.

§ 136.202 Certificate of Inspection phase-in period.

(a) All owners or managing operators of more than one existing towing vessel required to have a COI by this subchapter must ensure that each existing towing vessel under their ownership or control is issued a valid COI according to the following schedule:

(1) By July 22, 2019, at least 25 percent of the towing vessels must have valid COIs on board;

(2) By July 20, 2020, at least 50 percent of the towing vessels must have valid COIs on board;

(3) By July 19, 2021, at least 75 percent of the towing vessels must have valid COIs on board; and

(4) By July 19, 2022, 100 percent of the towing vessels must have valid COIs on board.

(b) All owners or managing operators of only one existing towing vessel required to have a COI by this subchapter must ensure the vessel has an onboard, valid COI by July 20, 2020.

(c) A new towing vessel must obtain a COI before it enters into service.

§ 136.205 Description.

A towing vessel's COI describes the vessel, routes that it may travel, minimum manning requirements and total persons allowed onboard, safety equipment and appliances required to be onboard, horsepower, and other information pertinent to the vessel's operations as determined by the OCMI.

§ 136.210 Obtaining or renewing a COI.

Owners and managing operators must submit Form CG-3752, "Application for

Inspection of U.S. Vessel," to the cognizant OCMI where the inspection will take place. The owner or managing operator must submit the application at least 30 days before the vessel will undergo the initial inspection for certification. The owner or managing operator must schedule an inspection for this initial certification with the cognizant OCMI at least 3 months before the vessel is to undergo the inspection for certification.

(a) In addition to Form CG-3752, the owner or managing operator must submit:

- (1) For initial certification:
 - (i) Vessel particular information; and
 - (ii) Number of persons in addition to the crew, if requested; or
- (2) For a renewal of certification:
 - (i) Any changes to the information in paragraph (a)(1) of this section; and
 - (ii) A description of any modifications to the vessel.

(b) In addition to Form CG-3752 and the requirements of paragraph (a) of this section, the owner or managing operator of vessels utilizing the TSMS option must submit:

(1) Objective evidence that the owner or managing operator and the vessel are in compliance with the TSMS requirements in part 138 of this subchapter; and

(2) Objective evidence that the vessel's structure, stability, and essential systems comply with the applicable requirements of this subchapter for the intended route and service. This objective evidence may be in the form of a survey report issued by a TPO or another form acceptable to the Coast Guard.

§ 136.212 Inspection for certification.

(a) *Frequency of inspections.* After a towing vessel receives its initial COI, the OCMI will inspect a towing vessel subject to this subchapter located in his or her jurisdiction at least once every 5 years. The OCMI must ensure that every towing vessel is of a structure suitable for its intended route. If the OCMI deems it necessary, he or she may direct the vessel to get underway, and may adopt any other suitable means to test the towing vessel and its equipment.

(b) *Nature of inspection.* The inspection will ensure that the vessel is in satisfactory condition and fit for the service for which it is intended, and that it complies with the applicable statutes and regulations for such vessels. The inspection will include inspections of the structure, pressure vessels and their appurtenances, piping, main and auxiliary machinery, electrical installations, lifesaving appliances, fire detecting and extinguishing equipment, pilot boarding equipment, and other equipment. The inspection will also determine that the vessel is in possession of any valid certificates or licenses issued by the Federal Communications Commission, if required. The inspection will also include an examination of the vessel's lights, means of making sound signals and distress signals, and pollution prevention systems and procedures.

(c) *Time of issuance of COI.* The OCMI will issue a vessel a new COI after the vessel successfully completes the inspection for certification.

§ 136.215 Period of validity.

(a) A COI for a towing vessel is valid for 5 years from the date of issue.

(b) For a towing vessel utilizing the TSMS option, the COI is invalid upon the expiration or revocation of the owner or managing operator TSMS certificate or the ISM Code Certificate.

(c) A COI may be suspended and withdrawn or revoked by the cognizant Officer in Charge, Marine Inspection at any time for noncompliance with the requirements of this subchapter.

§ 136.220 Posting.

(a) The original COI must be framed under glass or other transparent material and posted in a conspicuous place onboard the towing vessel.

(b) If posting is impracticable, the COI must be kept on board in a weathertight container and must be readily available.

§ 136.230 Routes permitted.

(a) The area of operation for each towing vessel and any necessary operational limits are determined by the cognizant OCMI and recorded on the vessel's COI. Each area of operation, referred to as a route, is described on

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the COI under the major headings "Oceans," "Coastwise," "Limited Coastwise," "Great Lakes," "Lakes, Bays, and Sounds," or "Rivers," as applicable. Additional limitations imposed or extensions granted are described by reference to bodies of waters, geographical points, distances from geographical points, distances from land, depths of channel, seasonal limitations, and similar factors.

(b) Operation of a towing vessel on a route of lesser severity than those specifically described or designated on the COI is permitted, unless the route is expressly prohibited on the COI. The general order of decreasing severity of routes is: Oceans; coastwise; limited coastwise; Great Lakes; lakes, bays, and sounds; and rivers. The cognizant OCMI may prohibit a vessel from operating on a route of lesser severity than the primary route on which a vessel is authorized to operate, if local conditions necessitate such a restriction.

(c) When designating a permitted route or imposing any operational limits on a towing vessel, the cognizant OCMI may consider:

(1) The route-specific requirements of this subchapter;

(2) The performance capabilities of the vessel based on design, scantlings, stability, subdivision, propulsion, speed, operating modes, maneuverability, and other characteristics;

(3) The suitability of the vessel for nighttime operations and use in all weather conditions;

(4) Vessel operations in globally remote areas or severe environments not covered by this subchapter. Such areas may include, but are not limited to, polar regions, remote islands, areas of extreme weather, or other remote areas where timely emergency assistance cannot be anticipated; and

(5) The TSMS applicable to the vessel, if the vessel has one.

§ 136.235 Certificate of Inspection amendment.

(a) An amended COI may be issued at any time by the cognizant OCMI. The amended COI replaces the original, but the expiration date remains the same as that of the original. An amended COI may be issued to authorize and record a change in the dimensions,

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gross tonnage, owner, managing operator, manning, persons permitted, route permitted, conditions of operations, or equipment of a towing vessel, from that specified in the current COI.

(b) The owner or managing operator of the towing vessel must make a request for an amended COI to the cognizant OCMI any time there is a change in the character of the vessel or in its route, equipment, ownership, operation, or similar factors specified in its current COI. The OCMI may need to conduct an inspection before issuing an amended COI.

(c) For those vessels selecting the TSMS option, the owner or managing operator of the towing vessel must provide to the OCMI objective evidence of compliance with the requirements in this subchapter prior to the issuance of an amended COI. The evidence must:

(1) Be from a TPO and prepared in accordance with parts 138 and 139 of this subchapter; and

(2) Consider the change in the character of a vessel or in its route, equipment, ownership, operation, or similar factors specified in the vessel's current COI.

§ 136.240 Permit to proceed.

Permission to proceed to another port for repairs (Form CG-948) may be required for a towing vessel that is no longer in compliance with its COI. This permission may be necessary in certain situations, including damage to the vessel, failure of an essential system, or failure to comply with a regulation, including failure to comply with the TSMS requirements, if appropriate.

(a) *What a vessel with a TSMS must do before proceeding to another port for repairs.* A vessel with a TSMS may proceed to another port for repair, if:

(1) In the judgment of the owner, managing operator, or master, the trip can be completed safely;

(2) The TSMS addresses the condition of the vessel that has resulted in non-compliance and the necessary conditions under which the vessel may safely proceed to another port for repair;

(3) The vessel proceeds as provided in the TSMS and does not tow while proceeding, unless the owner or managing

operator determines that it is safe to do so; and

(4) The owner or managing operator notifies the cognizant OCMI in whose zone the non-compliance occurred or is discovered, before the vessel proceeds. The owner or operator must also notify the cognizant OCMI in any other OCMI zones through which the vessel will transit.

(b) *What another vessel must do before proceeding to another port for repairs.* If a vessel does not have a TSMS, or a vessel has one but it does not address the condition of the vessel that has resulted in non-compliance or the necessary conditions under which the vessel may safely proceed to another port for repair, the owner, managing operator, or master must request permission to proceed from the cognizant OCMI in whose zone the non-compliance occurs or is discovered. This permission operates as follows:

(1) The request for permission to proceed may be made electronically, in writing, or orally. The cognizant OCMI may require a written description, a damage survey, or other documentation to assist in determining the nature and seriousness of the non-compliance.

(2) The vessel will not engage in towing, unless the cognizant OCMI determines it is safe to do so.

(3) The Coast Guard may issue the permit either on Form CG-948, "Permit to Proceed to Another Port for Repairs," or in letter form, and will state the conditions under which the vessel may proceed to another port for repair.

(c) *Inspection or examination.* The cognizant OCMI may require an inspection of the vessel by a Coast Guard Marine Inspector or an examination by a surveyor from a TPO prior to the vessel proceeding.

§ 136.245 Permit to carry an excursion party or temporary extension or alteration of route.

(a) A towing vessel must obtain approval to engage in an excursion prior to carrying a greater number of persons than permitted by the COI, or to temporarily extend or alter its area of operation.

(b) For a vessel utilizing the TSMS option, the vessel may engage in an excursion, if:

(1) In the opinion of the owner, managing operator, or master the operation can be undertaken safely;

(2) The TSMS addresses the temporary excursion operation contemplated; the necessary conditions under which the vessel may safely conduct the operation, including the number of persons the vessel may carry; the crew required; and any additional lifesaving or safety equipment required;

(3) The vessel proceeds as provided in the TSMS; and

(4) The owner, managing operator, or master notifies the cognizant OCMI at least 48 hours prior to the temporary excursion operation. The cognizant OCMI may require submission of pertinent provisions of the TSMS applicable to the vessel for review and onboard verification of compliance. If the cognizant OCMI has reasonable cause to believe that the TSMS applicable to the vessel is insufficient for the intended excursion, additional information may be requested and/or additional requirements may be imposed.

(c) If the towing vessel is not under a TSMS, or the TSMS applicable to the vessel does not address the temporary excursion operation:

(1) The owner or managing operator must submit an application to the cognizant OCMI. The application must state the intended route, number of passengers or guests, and any other conditions applicable to the excursion that exceed those specified in its COI.

(2) The cognizant OCMI may issue the permit either on Form CG-949, "Permit To Carry Excursion Party," or in letter form. The cognizant OCMI will indicate on the permit the conditions under which it is issued, the number of persons the vessel may carry, the crew required, any additional life-saving or safety equipment required, the route for which the permit is granted, and the dates on which the permit is valid. The application may be made electronically, in writing, or orally.

(3) The vessel may not engage in towing during the excursion, unless the

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cognizant OCMI determines it is safe to do so.

(d) The cognizant OCMI may require an inspection of the vessel by a Coast Guard Marine Inspector or an examination by a surveyor from a TPO prior to the vessel proceeding.

46 CFR Ch. I (10-1-24 Edition)**§ 136.250 Load lines.**

Vessels described in Table 136.250 of this section that operate on the Great Lakes or outside the Boundary Lines, as set forth in 46 CFR part 7, are subject to load line requirements in subchapter E of this chapter in the following circumstances:

TABLE 136.250

A vessel that—	Is subject to load line requirements in subchapter E of this chapter if it is—
(a) Is on an international voyage—	(1) Seventy nine (79) feet (24 meters) or more in length and built on or after July 21, 1968; or (2) One hundred and fifty (150) gross tons or more if built before July 21, 1968.
(b) Is on a domestic voyage—	(1) Seventy nine (79) feet (24 meters) or more in length and built on or after January 1, 1986; or (2) One hundred and fifty (150) gross tons or more if built before January 1, 1986.

PART 137—VESSEL COMPLIANCE**Subpart A—General**

Sec.

137.100 Purpose.
137.120 Responsibility for compliance.
137.130 Program for vessel compliance for the Towing Safety Management System (TSMS) option.
137.135 Reports and documentation required for the TSMS option.

137.325 General conduct of examination.
137.330 Scope of the drydock examination.
137.335 Underwater survey in lieu of drydocking.

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

SOURCE: 81 FR 40101, June 20, 2016, unless otherwise noted.

Subpart A—General**§ 137.100 Purpose.**

This part describes the procedures owners or managing operators of towing vessels must use to demonstrate compliance with the requirements of this subchapter.

§ 137.120 Responsibility for compliance.

(a) The owner and managing operator must ensure that the towing vessel is in compliance with this subchapter and other applicable laws and regulations at all times.

(b) Non-conformities and deficiencies must be corrected in a timely manner.

§ 137.130 Program for vessel compliance for the Towing Safety Management System (TSMS) option.

The owner or managing operator of a towing vessel choosing to use the TSMS option must implement an external or internal survey program for vessel compliance. The program for vessel compliance can be either:

(a) An external survey program, in which the owner or managing operator

Subpart C—Drydock and Internal Structural Surveys

137.300 Intervals for drydock and internal structural examinations.
137.302 Documenting compliance for the Coast Guard inspection option.
137.305 Documenting compliance for the TSMS option.
137.310 External survey program.
137.315 Internal survey program.
137.317 Coast Guard oversight of drydock and internal structural examination program for vessels under the TSMS option.
137.320 Vessels holding a valid load line certificate.
137.322 Classed vessels.