



USCG Office of Commercial Vessel Compliance (CG-CVC)
Mission Management System (MMS) Work Instruction (WI)



Category	Inspected Towing Vessel Program				
Title	OCMI Guidance on Special Consideration for 46 CFR Subchapter M Vessels				
Serial	CVC-WI-010(3)	Orig. Date	02OCT18	Rev. Date	07FEB23
Disclaimer:	This guidance is not a substitute for applicable legal requirements, nor is it itself a rule. It is not intended to, nor does it impose legally-binding requirements on any part. It represents the Coast Guard’s current thinking on this topic and may assist industry, mariners, the public, and the Coast Guard, as well as other federal and state regulators, in applying statutory and regulatory requirements. You can use an alternative approach for complying with these requirements if the approach satisfies the requirements of the applicable statutes and regulations. If you want to discuss an alternative approach you may contact the Coast Guard Office of Commercial Vessel Compliance (CG-CVC) at CG-CVC@uscg.mil which is responsible for implementing this guidance.				
References:	(a) Title 46 Code of Federal Regulations (CFR), chapter I, subchapter M – Towing Vessels (b) Title 46 CFR § 136.120 (c) Title 46 CFR § 144.215				
Change Summary:	The following is a list of major changes found in revision 3. <ul style="list-style-type: none"> Added to Enclosure, guidance on use of alternate visual distress signal (eVDSD). Added to Enclosure, guidance on use of alternate line throwing appliances. 				

- A. Purpose. This instruction provides guidance to Officers in Charge, Marine Inspection (OCMI) on the application and implementation of a special consideration determination for towing vessels inspected under reference (a). If this WI does not provide instructions or interpretations for a given provision of reference (a), that provision should be applied as written.
- B. Background. The special consideration provisions under references (b) and (c) may be used to provide practical application of the regulations and authorize departures from specific requirements, actions, or decisions that maintain an adequate degree of safety for a given vessel. Special consideration may only be granted if “unusual circumstances or arrangements warrant such departures” and an “equivalent level of safety” is established to the applicable standard. The OCMI should consider if the special consideration should be conditional on the serviceable nature of the original equipment and if the allowance should terminate once that equipment is no longer serviceable. At that point, the equipment must be replaced with equipment meeting the applicable regulations. The final approving authority for special consideration items belongs to the OCMI who issued the COI.
- C. Action. Cognizant OCMI’s should reference this guidance when a departure from the prescribed regulations is requested by a towing vessel owner, managing operator, or third-party organization (TPO). District Prevention Staff (dp) and the Towing Vessel National Center of Expertise (TVNCOE) should also refer to this guidance when considering appeals and advising field units and the public, respectively.
- D. OCMI Instruction. OCMI’s have the authority to approve special consideration requests per

references (b) and (c) and should exercise this authority to effectively manage the risk to towing vessels within their inspection zone.

1. MISLE Documentation. Upon granting special consideration, a special note **must be added** in MISLE and, if applicable, the COI appropriately annotated. OCMI's must ensure that a MISLE activity fully documents the request determination and addresses, at a minimum, the items below:
 - a. What specific regulation is the submitter seeking special consideration for?
 - b. What is the owner or operator's detailed analysis for how the proposed alternative provides an equivalent level of safety?
 - c. Were any assumptions made in the process of making the determination?
 - d. What is the OCMI's assessment of the applicable risk?
 - e. What is the OCMI's approved condition along with any associated restrictions?
 2. Documentation for the owner or operator. OCMI's should provide the owner or operator with a written response regarding the disposition of the special consideration request and any associated conditions for the owner or operator's records, in addition to an amended COI (if applicable).
 3. Receiving OCMI's. OCMI's shall consistently apply regulations and standards to avoid disruption and undue expense to industry.¹ Although special consideration approvals are only valid within the cognizant OCMI's zone, OCMI's should generally honor each other's decisions. However, if a receiving OCMI considers denying a special consideration granted by another OCMI, the two OCMI's should attempt to reach an agreement prior to such denial to ensure regulations are applied consistently. If such disagreement cannot be resolved, the OCMI denying the special consideration shall use the resolution process provided in 46 U.S.C. § 3305(d)(2).
- E. Appeals. Appeals of decisions made regarding special consideration request should follow the procedures within 46 CFR § 136.180 and 46 CFR § 1.03.

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By direction

Enclosure: Guide for 46 CFR Subchapter M Special Consideration Requests

¹ 46 U.S.C. § 3305(d)(1).

GUIDE *for* 46 CFR SUBCHAPTER M SPECIAL CONSIDERATION REQUESTS

This enclosure provides guidance for OCMI's to use when receiving requests for special consideration. The terms "existing towing vessel" and "new towing vessel" have the same meaning found in 46 CFR § 136.110.

Subject	Requirement (46 CFR...)	Items that should be considered
Use of Type II/III PFDs in lieu of work vests	§§ 140.430, 141.340	<p>Approved under 46 CFR §§ 160.064 or 160.264; inherently buoyant – no inflatable PFDs may be used unless specifically approved under § 160.053; color highly visible (red or orange); free of snag hazards; and made of durable fabric.</p> <p><u>For TPOs & owners or managing operators:</u> Refer questions on use of Type II/III devices to the OCMI.</p> <p>Of note, devices approved under § 160.064 are marked as "USCG approved wearable device for uninspected commercial vessels less than 12 m (40 feet) in length not carrying passengers for hire, and for recreational boats." This statement speaks to the vessels for which the device meets carriage requirements. Therefore, these PFDs may be used as work vests only and not to fulfill carriage requirements.</p>
Visual distress signals	§ 141.375	<p>For towing vessels that operate on Lakes, Bays and Sounds, and Rivers routes: These vessels may carry one electronic visual distress signaling device (eVDSD) that meets CG-ENG Policy Letter 3-18 in lieu of 3-day and 3-night signals (flares and smoke) per Table § 141.375.</p> <p>For vessels that operate on a Great Lakes or on a Coastwise route, with a duration of 30 minutes or less: they may carry one electronic visual distress signaling device (eVDSD) that meets CG-ENG Policy Letter 3-18 in lieu of 3-day/3-night signals (flares and smoke) per Table §141.375.</p> <p>This consideration is only equivalent for the required day and night distress signals as long as the vessel maintains the required equipment per: 33 CFR part 26, 33 CFR part 164, 46 CFR § 141.380 (if applicable), and 46 CFR § 140.715.</p> <p>This <u>is not</u> an approved equivalency for vessels where SOLAS standards are required and not for vessels engaged in multi-service operations, as this alternative arrangement under special consideration is for domestic routes and cannot be extended to another vessel inspection subchapter.</p>
Line throwing appliance	§ 141.385	<p>Use of Subchapter Q approval series 46 CFR § 160.031 shoulder gun type line throwing appliance may be used in lieu of § 160.040 line throwing appliance - impulse projected rocket type.</p> <p>Not an approved equivalency for vessels where SOLAS standards are required.</p>

Storage of flammable/combustible products	§ 142.225	<p><u>For existing towing vessels:</u> Subject to the provisions listed below, vessels may keep their current configuration until the arrangement is no longer serviceable, or the current dedicated storage units present a higher risk of fire hazard.</p> <p>If authorized by the OCMI the special consideration request must be documented within the TSMS, if applicable, and notated on the Certificate of Inspection (COI): “Vessel is authorized to use the storage locker located on [e.g., the stern quarter] for storage of flammable or combustible products, until no longer serviceable.”</p> <p>The provisions are:</p> <ol style="list-style-type: none"> 1. Must have previously been onboard the vessel (no new aluminum paint lockers since publishing of Sub M: June 20, 2016); 2. Must be on the weather deck; 3. Cannot be adjacent to or above machinery spaces, sleeping quarters, or stacks; 4. Must be stowed away from ignition sources; 5. Must be made of minimum 1/4" aluminum; 6. Welded construction; 7. Maximum size- 30 ft³; and 8. Must meet other requirements in § 142.225 (i.e., Secured to vessel and have additional 40-B portable extinguisher near locker.) <p><u>For new towing vessels:</u> It would be rare for unusual circumstances or arrangements to warrant departures for new vessels.</p>
Fire pump pitot-tube pressure testing	§ 142.325(a)	<p>There is an accurate method to ascertain pressure and flow of the fire main system.</p> <p>The instruments have been calibrated at least annually per manufacturer’s specifications.</p> <p>The requester provided the manufacturer’s specification of instrument, test procedure, and calculations.</p>
Length of fire hose	§ 142.325(d) and (e)(2)	<p>The requester addressed how each part of the vessel can be reached by one hose length that can be handled by a crewmember when fully charged.</p> <p>The number of fire hydrants onboard is for a stream of water to reach any part of the vessel based on a single 50’ hose length per 46 CFR § 142.325(c).</p> <p>A change in the length of hose or in the fire main pressure could also necessitate a testing of the complete system to ensure access to all required spaces in the event of a fire.</p>

<p>Pressure vessel (PV) maximum allowable working pressure (MAWP)</p>	<p>§ 143.300(c)</p>	<p>For the safety of the attending MI and the crew onboard, the requirement for <i>marking</i> of the pressure vessels remains. OCMI's, MIs, and TPOs should look for such visual indications as a stamp, permanent or semi-permanent nameplate, laminated card, or writing on the PV with a marker or paint.</p> <p><u>For existing towing vessels:</u> Because the MAWP may not be known on many existing PVs, existing vessels are authorized to mark the existing pressure vessels with the relief valve pressure, provided the relief valve set point has been verified in the last year, in accordance with 46 CFR § 143.245. Once an existing PV is no longer serviceable or is replaced with a new PV, the vessel must meet the requirements in this subchapter for PVs.</p> <p><u>For new towing vessels:</u> It would be rare for unusual circumstances or arrangements to warrant departures for new vessels.</p>
<p>Ventilation: Means to stop fans and close openings</p>	<p>§ 144.605</p>	<p>The means to stop fans and close openings requirements of 46 CFR § 144.605 is separate from the fire extinguishing equipment requirements in Part 142. While ventilation closures (e.g., dampers) that are part of fixed fire extinguishing systems may also be used as a means to close openings in the machinery space, the installation of a fixed fire extinguishing system may not alleviate the vessel from the requirements to provide a means to close all openings to the machinery space (such as doorways, annular spaces around funnels and other openings into such spaces). Canvas is an acceptable means of closure for annular spaces around funnels and other openings. While specific requirements are not found in Subchapter M, additional guidance can be found in 46 CFR § 76.15-35 (a cite that permits the use of canvas).</p>
<p>Navigation lights and shapes</p>	<p>§ 140.720</p>	<p>General: Navigation lights and shapes serve to give clear indication of the aspect and status of a vessel so action may be taken by other vessels to avoid a collision.</p> <p>Carriage Requirements: The CG interprets the 46 CFR § 140.720 requirement to “be equipped” with navigation lights and shapes to mean that the vessels only need to carry and exhibit the lights and shapes the vessel needs to operate.</p> <p>NOTE: It is incumbent upon the master of the vessel to ensure that no ambiguity exists as to their vessel aspect or status. In cases where the prescribed navigation lights or shapes are not exhibited, the vessel cannot visually claim any special circumstances, such as restricted in ability to maneuver. If the vessel were to operate in a condition or configuration and not exhibit the appropriate lights and shapes, then the OCMI may hold the vessel responsible for not complying with the Navigation Rules.</p> <p>If authorized by the OCMI, the special consideration request must be documented within the TSMS, if applicable, and notated on the Certificate of Inspection (COI).</p>