

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 147 as follows:

PART 147—SAFETY ZONES

1. The authority citation for part 147 continues to read as follows:

Authority: 14 U.S.C. 85; 43 U.S.C. 1333; 49 CFR 1.46.

2. Add §§ 147.815, 147.817, 147.819, 147.821 and 147.23 to read as follows:

§ 147.815 ExxonMobil Hoover Floating OCS Facility safety zone.

(a) *Description.* The ExxonMobil Hoover Floating OCS Facility, a moored spar buoy, Alaminos Canyon Block 25A (AC25A), is located at position 26°56'33" N, 94°41'19.55" W. The area within 500 meters (1640.4 feet) from each point on the structure's outer edge is a safety zone.

(b) *Regulation.* No vessel may enter or remain in this safety zone except the following: (1) An attending vessel,

(2) A vessel under 100 feet in length overall not engaged in towing, or

(3) A vessel authorized by the Commander, Eighth Coast Guard District.

§ 147.817 Sir Douglas Morpeth Tension Leg Platform safety zone.

(a) *Description.* The Sir Douglas Morpeth Tension Leg Platform (Morpeth TLP), Ewing Bank Block 921A (EB 921A), is located at position 28°02'5.28" N, 90°01'22.12" W. The area within 500 meters (1640.4 feet) from each point on the structure's outer edge is a safety zone.

(b) *Regulation.* No vessel may enter or remain in this safety zone except the following: (1) An attending vessel,

(2) A vessel under 100 feet in length overall not engaged in towing, or

(3) A vessel authorized by the Commander, Eighth Coast Guard District.

§ 147.819 Allegheny Tension Leg Platform safety zone.

(a) *Description.* The Allegheny Tension Leg Platform (Allegheny TLP), Green Canyon Block 254A (GC 254A), is located at position 27°41'29.65" N, 90°16'31.93" W. The area within 500 meters (1640.4 feet) from each point on the structure's outer edge is a safety zone.

(b) *Regulation.* No vessel may enter or remain in this safety zone except the following: (1) An attending vessel,

(2) A vessel under 100 feet in length overall not engaged in towing, or

(3) A vessel authorized by the Commander, Eighth Coast Guard District.

§ 147.821 Brutus Tension Leg Platform safety zone.

(a) *Description.* The Brutus Tension Leg Platform (Brutus TLP), Green Canyon Block 158 (GC 158), is located at position 27°47'42.86" N, 90°38'51.15" W. The area within 500 meters (1640.4 feet) from each point on the structure's outer edge is a safety zone.

(b) *Regulation.* No vessel may enter or remain in this safety zone except the following: (1) An attending vessel,

(2) A vessel under 100 feet in length overall not engaged in towing, or

(3) A vessel authorized by the Commander, Eighth Coast Guard District.

§ 147.823 Enchilada Platform safety zone.

(a) *Description.* The Enchilada Platform, Garden Banks Block 128A (GB 128A), is located at position 27°52'31.31" N, 91°59'11.09" W. The area within 500 meters (1640.4 feet) from each point on the structure's outer edge, not to extend into the adjacent East—West Gulf of Mexico Fairway, is a safety zone.

(b) *Regulation.* No vessel may enter or remain in this safety zone except the following: (1) An attending vessel,

(2) A vessel under 100 feet in length overall not engaged in towing, or

(3) A vessel authorized by the Commander, Eighth Coast Guard District.

Dated: August 27, 2001.

R.J. Casto,

Rear Admiral, U.S. Coast Guard, Commander, Eighth Coast Guard District.

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 175

[USCG-2001-10163]

RIN 2115-AG18

Federal Requirements For Propeller Injury Avoidance Measures

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to require owners of non-planing recreational houseboats with propeller-driven propulsion located aft of the transom to install one of two propulsion unit measures or employ three combined measures. This change responds to recommendations made by the National Boating Safety Advisory Council (NBSAC). The proposed rule

would reduce the number of boaters who are seriously or fatally injured when struck by a non-planing recreational houseboat with propeller-driven propulsion.

DATES: Comments and related material must reach the Docket Management Facility on or before March 11, 2002.

ADDRESSES: To make sure that your comments and related material are not entered more than once in the docket, please submit them by only one of the following means:

(1) By mail to the Docket Management Facility (USCG-2001-10163), U.S. Department of Transportation, room PL-401, 400 Seventh Street SW., Washington, DC 20590-0001.

(2) By delivery to room PL-401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202-366-9329.

(3) By fax to the Docket Management Facility at 202-493-2251.

(4) Electronically through the Internet Site for the Docket Management System at <http://dms.dot.gov>. The Docket Management Facility maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at room PL-401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at <http://dms.dot.gov>. You may obtain a copy of this proposed rule by calling the U. S. Coast Guard Infoline at 1-800-368-5647, or read it on the Internet, at the web site for the Office of Boating Safety, at <http://www.uscgboating.org> or at <http://dms.dot.gov>.

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, contact Carlton Perry, Project Manager, Office of Boating Safety, U.S. Coast Guard, by telephone at 202-267-0979 or by e-mail at cperry@comdt.uscg.mil. If you have questions on viewing or submitting material to the docket, call Dorothy Beard, Chief, Dockets, Department of Transportation, telephone 202-366-5149.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting

comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (USCG–2001–10163), indicate the specific section of this document to which each comment applies, and give the reason for each comment. You may submit your comments and material by mail, hand delivery, fax, or electronic means to the Docket Management Facility at the address under **ADDRESSES**; but please submit your comments and material by only one means. If you submit them by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and want to know they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We do not plan to hold a public meeting but you may submit a request for one to the Docket Management Facility at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that a public meeting would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

Regulatory History. The Coast Guard received requests from the National Boating Safety Advisory Council (NBSAC), propeller strike prevention organizations, and the general public to require installation of propeller guards on recreational houseboats and other displacement (non-planing) vessels, including those leased by livery operations. While accident data currently available to us does not show a high number of reported fatalities from propeller strikes annually, the number of responses to the 1995 and 1997 notices of request for comments (discussed below) indicate a great deal of public interest in whether and how the Federal government should act to prevent propeller-strike accidents. After consideration of public input and consultation with the National Boating Safety Advisory Council (NBSAC), we determined that we should promulgate regulations for owners of houseboats as non-planing recreational vessels with propeller-driven propulsion aft of the transom.

Initial Notice of Request for Comments. To gather information from the recreational boating public and

industry, we published a notice of request for comments in the **Federal Register** in May 1995 (60 FR 25191). We asked the recreational boating public to comment on: (1) The economic and other impacts of establishing a requirement for propeller guards on recreational houseboats and other displacement (non-planing) vessels; (2) suggestions on alternatives to propeller guards that should also be considered; (3) recommendations on the applicability of regulations; and (4) concerns of the livery and charter industries.

We received over 100 comments during the 60-day comment period. Various parties, including the National Association of State Boating Law Administrators (NASBLA) requested an extension of the comment period. To accommodate this request, we published a notice to reopen the comment period for an additional 120-days in August 1995 (60 FR 40545). We received 1,994 comments to this notice, including more than 1,800 form letters that supported a requirement to use propeller guard technology or jet pump propulsion on rental houseboats. An additional 69 comments also supported developing such a requirement. Fifty-seven comments objected to such a requirement. The information received was voluminous, but too general to help us develop a regulation.

Advance Notice of Proposed Rulemaking. We published an advance notice of proposed rulemaking (ANPRM) in March 1996 (61 FR 13123) that asked questions to gather current and specific information about the injuries involving propeller strikes and rented boats. We also announced a series of meetings across the country to enable the public to express their views. Some of the questions specifically sought out the following information: the appropriate Federal and State roles in reducing propeller strike incidents; whether government intervention is appropriate; and if so, whether it should be directed at the vessels, their manufacturers, their operators, their owners, or the companies leasing such vessels.

Second Notice of Request for Comments. After reviewing available research and the comments from the public, and consulting with NBSAC at its November 1996 meeting, we published another notice of request for comments in April 1997 (62 FR 22991) and provided a 90-day comment period. We solicited comments on the effectiveness of specific devices and interventions that may reduce the number of recreational boating accidents involving rented powerboats

in which individuals are injured by the propeller. We also asked for information about other devices or interventions (propeller injury avoidance measures) that may reduce the severity of injuries to individuals involved in propeller-strike accidents.

The devices or interventions we asked about included: (1) Swimming ladder locations and interlocks; (2) large warning notices to make the operators, passengers and swimmers more aware of the dangers; (3) propeller location wands; (4) clear vision aft to alert operators to the presence of swimmers near the propeller; (5) propeller shaft engagement alarms to alert passengers and swimmers of a rotating propeller; (6) conversion of a standard inboard, outboard, or inboard/outboard engine with a jet pump propulsion engine; (7) ignition cut-off/auto throttle and neutral returns to stop the propeller when the helm is vacated or unattended; and (8) education specifically directed to the location and dangers of propellers. We also solicited comments on propeller guards, and any other devices that might reduce the occurrence or severity of injuries due to propeller strikes. Based on requests from the public, we published a notice that extended the comment period an additional 210 days in August 1997 (62 FR 44507).

Summary of Comments. In response to the ANPRM and the notices, we received 2,027 comments, more than 1,800 of which were form letters and none of which contained information sufficient to support proposing requirements for manufacturers of new recreational boats, nor did they help us determine the estimated burdens and costs to boat manufacturers. Of the total comments received, 95% were in favor of initiating a Federal regulation.

NBSAC Consultation. At the April 30, 2000, NBSAC Subcommittee meeting, we presented the results of our research on accident report statistics: vessels most frequently involved with injuries are open recreational motorboats in the category “16 feet to less than 26 feet in length.” We announced our intention to initiate a regulatory project that would require owners of this category of recreational vessels to attach pre-printed warning labels at strategic locations on their vessels. We would also propose requirements for owners to attach a propeller guard on a smaller number of rental non-planing houseboats. The Subcommittee report included the Coast Guard rulemaking project description. The Subcommittee presented its report to the full Council at the May 1, 2000, meeting and the Council accepted the Subcommittee’s report without amendment.

At the October 2000 NBSAC Subcommittee meeting, the Subcommittee reviewed the preferred alternative from its April 2000 meeting and recommended that we propose, instead, an expanded list of interventions for vessels in the category "16 feet to less than 26 feet in length." As a result, we developed and presented a number of propeller injury avoidance measures to NBSAC for their review. Again, the full Council accepted the Subcommittee report.

At the April 2001 NBSAC Subcommittee meeting, we presented the expanded list of alternatives from which owners of the affected vessels can choose for their vessels. After discussing the alternatives and their cost, the Council recommended that the Coast Guard, instead, develop four specific regulations:

(1) Require owners of all propeller driven vessels 12 feet in length and longer with propellers aft of the transom to display propeller warning labels and to employ an emergency cut-off switch, where installed;

(2) Require manufacturers and importers of new planing vessels 12 feet to 26 feet in length with propellers aft of the transom to select and install one of several factory installed propeller injury avoidance methods;

(3) Require manufacturers and importers of new non-planing vessels 12 feet in length and longer with propellers aft of the transom to select and install one of several factory installed propeller injury avoidance methods; and

(4) Require owners of all non-planing rental boats with propellers aft of the transom to install either a jet propulsion system or a propeller guard or all of several propeller injury avoidance measures.

This regulatory project would focus on implementing the fourth NBSAC recommendation. We will address the other NBSAC recommendations in subsequent regulatory projects. Due to the extensive broadening of the initial regulatory project, we are withdrawing the initial regulatory project, as published in the Notices section of this document, and initiating the first of a series of separate regulatory projects in response to recent NBSAC recommendations. We have placed the public docket for the initial regulatory project (CGD 95-041) into a new public docket (USCG-2001-10299) at the Docket Management System (DMS) at the above address under **ADDRESSES** for public viewing.

Use of the propeller injury avoidance measures described in this proposed rule would, in most cases, prevent direct contact of the propeller blades

with persons in the water and minimize serious and fatal injuries due to propeller strikes.

Discussion of Proposed Rule

1. Section 175.03 of Title 33 Code of Federal Regulations would be amended to include definitions of the following terms used in this subpart: clear vision aft, houseboat, ignition cut-off switch, non-planing vessel, planing vessel, and swim ladder interlock. We would specifically like public comment on these terms and definitions.

2. Part 175—Equipment Requirements would be revised by adding a new subpart E—Propeller Injury Avoidance Measures.

3. New section 175.301, Applicability, would describe the category of recreational vessels that are subject to the new requirements: Non-planing recreational houseboats with propeller-driven propulsion located aft of the transom. We would specifically like public comment on definitions for terms used in this section.

4. New sections 175.310 and 175.315 would describe the specific safety measures required by this proposed rule. Section 175.310 instructs owners and operators of vessels for rent; section 175.315 instructs owners and operators of vessels not for rent.

Owner and Operator Requirements for Vessels for Rent

Under proposed section 175.310, owners of recreational, non-planing houseboats for rent with propeller-driven propulsion located aft of the transom must equip their vessels with either a propeller guard, or a combination of three propeller injury avoidance measures: A swim ladder interlock, an aft visibility device, and an emergency ignition cut-off switch. Operators of vessels for rent must use either a propeller guard or all three propeller injury avoidance measures listed above.

Owner and Operator Requirements for Vessels Not for Rent

Under proposed section 175.315, owners of recreational, non-planing houseboats not for rent with propeller-driven propulsion located aft of the transom must equip their vessels with either a propeller guard, or both of the following propeller injury avoidance measures: a swim ladder interlock and an aft visibility device.

Operators of vessels not for rent must use either a propeller guard, or all of the following propeller injury avoidance measures: a swim ladder interlock, an aft visibility device, and an emergency

ignition cut-off switch (if factory installed).

We are not requiring owners of vessels not for rent to install an emergency ignition cut-off switch because it may be cost-prohibitive. However, if a vessel has an emergency ignition cut-off switch that was installed at the factory, vessel operators must use it. If a vessel does not have a factory-installed emergency ignition cut-off switch, we encourage, but do not require the owner to get one.

We would specifically like public comment on the availability of, and experience with, the safety devices described in this proposed rule. We would also like feedback about your experience operating a vessel with a propeller guard; fitting a propeller guard to a vessel drive unit; or concerns about propeller guard clogging, if any.

5. *Phase-in period for installing safety measures.* To minimize the immediate economic burden on owners of both rental and non-rental vessels and to provide a reasonable time period for compliance, we would provide a phase-in period for implementing the safety measures. Owners of vessels not for rent, lease, or charter would have 2 years from the date that a final rule is published to install the prescribed safety measures. Owners of vessels for rent, lease, or charter would have an additional year (3 years) from the date that a final rule is published to install the prescribed safety measures. We are allowing owners of vessels for rent an extra year because, in many cases, they have multiple vessels on which they must install the safety measures.

Regulatory Evaluation

This proposed rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget (OMB) has not reviewed this rule under that Order. It is not "significant" under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979).

A draft Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT follows:

Costs of Proposed Rule

We estimate that this rule would impose a \$12 to \$30 million economic cost on owners of approximately 100,000 non-planing houseboats. Approximately 5,000 of these vessels are rented, leased or chartered.

Owners who lease, rent, or charter non-planing recreational houseboats would have to install either a propeller guard or three combined measures. The three measures include a swim ladder interlock (\$100 plus installation), a clear visibility aft device (\$20, self-installed), and an ignition cut-off switch (\$40, plus installation). Owners of non-planing non-rental recreational houseboats would not be required to install an ignition cut-off switch. Therefore, in our calculation of the total minimum cost to this group of owners, we have only included the cost of the other two measures.

Owners could convert their engine into a jet pump at a cost of \$2500 and be exempt from this rule. Because we do not expect many houseboat owners to do this, the maximum cost is based on installation of a propeller guard, which we estimate to be \$300 (self-installed).

To minimize the immediate economic impact of this rule, owners of non-rental houseboats are provided two years to comply; rental and livery businesses are granted an additional year (three years) to comply.

We estimate that costs to the government would be minimal. The Coast Guard would have to expand its Boarding Officer personnel training to include checking for installation of the injury avoidance measures, a propeller guard, or a jet pump engine in a safe and determinative manner, during currently required field boardings of recreational vessels for safety equipment checks.

Benefits of Proposed Rule

This proposed rule is appropriate because the Boating Accident Reporting Database (BARD) shows that the number of injuries and fatalities reported during calendar years 1990 through 1999 occurred at a chronic rate. BARD data for the same period revealed a total of 18 injuries and 2 fatalities involving non-planing recreational houseboats. The number of injuries to be prevented by this rule may be greatly understated since many boaters are unaware of the requirement to report accidents.

The benefits of avoiding future propeller strike injuries and fatalities are based on the eighteen propeller strike injuries and two fatalities caused by non-planing houseboats from 1990 through 1999. If we anticipate 100% compliance with this regulation and assume the eighteen injuries to be severe, then the total monetary benefits of injuries avoided are \$9.1 million. The total monetary benefits of injuries avoided are based on the value society is willing to pay to avert a severe injury, which the Office of the Secretary of

Transportation has calculated to be \$506,300.

In addition, two propeller-related fatalities were reported in the accident database from 1990 through 1999. If compliance with the regulation prevents these fatalities, then the total monetary benefits of fatalities avoided, based on the value society is willing to pay to avert a fatality, are \$5.4 million ($\$2,700,000 \times 2$ deaths). The total monetary benefit to society for avoiding all of the injuries and fatalities involving non-planing houseboats are \$14.5 million (\$9.1 for injuries and \$5.4 for fatalities) over a 10-year period. This exceeds our lowest cost estimates of \$12 million. If at least twelve fatalities are averted due to the implementation of the regulation, the benefits will exceed our highest cost estimates of \$30 million for this rule.

Vessel owners may incur additional benefits from lower insurance premiums as a result of their use of improved safety measures.

The Coast Guard expects that this rule would reduce the number of people who are killed or injured due to a propeller strike involving non-planing recreational houseboats.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have 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.

Individuals, not small entities, own the majority of non-planing recreational houseboats affected by this rule; however, under the Regulatory Flexibility Act, the Coast Guard must determine the impact on small entities. The Coast Guard estimates that there are 300 houseboat rental facilities that must install the propeller injury avoidance measures required by this rule. In order to minimize the burden on these small entities, the Coast Guard would provide them 3 years (an additional year beyond the 2 years provided to owners of non-rental houseboats) to comply with this rule.

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 rule would

have a significant economic effect on it, please submit a comment to the Docket Management Facility at the address under **ADDRESSES**. In your comment, explain why you think it qualifies and how and to what degree this rule would affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effect on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Carlton Perry, Project Manager, Office of Boating Safety, by telephone at 202–267–0979, or by e-mail at cperry@comdt.uscg.mil.

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).

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).

Federalism

A rule has implications for Federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them.

We have analyzed this proposed rule under that Order and have determined that it does not have implications for federalism. Under this proposal, the Coast Guard establishment of a performance standard or equipment installation requirement would not conflict with any existing State statute. The Coast Guard routinely consults with the National Association of State Boating Law Administrators (NASBLA) and will continue to do so on this specific regulatory project.

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 or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This proposed rule would not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

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.

Protection of Children

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

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.

To help the Coast Guard establish regular and meaningful consultation and collaboration with Indian and Alaskan Native tribes, we published a notice in the **Federal Register** (66 FR 36361, July 11, 2001) requesting comments on how to best carry out the Order. We invite your comments on how this proposed rule might impact tribal governments, even if that impact may not constitute a “tribal implication” under the Order.

Energy Effects

We have 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. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

We have considered the environmental impact of this proposed rule and concluded that, under figure 2–1, paragraph (34)(d), of Commandant Instruction M16475.1D, this proposed rule is categorically excluded from further environmental documentation. The proposed rule requires owners of non-planing recreational houseboats with propeller-driven propulsion located aft of the transom to install one of two propulsion unit measures or three combined measures. The propeller guard devices do not create sufficient drag through the water for these slow moving non-planing vessels to result in an increase of consumption of fossil fuels or increase air pollution due to increased exhaust. A “Categorical Exclusion Determination” is available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 175

Marine Safety.

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

PART 175—EQUIPMENT REQUIREMENTS

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

Authority: 46 U.S.C. 4302; 49 CFR 1.46.

2. Amend § 175.3 by adding the following undesignated definitions in alphabetical order to the rest of the section, to read as follows:

§ 175.3 Definitions.

* * * * *

Clear visibility aft device means a device, such as a video camera and monitor or a mirror, that allows the operator to see aft of the vessel from the engine throttle control station to be aware of the presence of a swimmer near a propeller.

Houseboat means a motorized vessel designed primarily with accommodation spaces with little or no foredeck or cockpit, with low freeboard and with a low length to beam ratio.

Ignition cut-off switch means a device that interrupts the engine ignition to stop the engine when the operator moves away from the engine throttle control station.

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Non-planing vessel means a vessel with a hull that is designed to ride through the water at any speed.

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Planing vessel means a vessel with a hull that is designed to ride on top of the water beyond a minimum speed.

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Swim ladder interlock means a device that interrupts the engine ignition to stop the engine when a swim ladder is moved into position near the propeller.

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3. Amend part 175 by adding a new subpart E—Propeller Injury Avoidance Measures as follows:

Subpart E—Propeller Injury Avoidance Measures

§ 175.301 Applicability.

§ 175.310 Propeller safety measures for rental houseboats.

§ 175.315 Propeller safety measures for non-rental houseboats.

§ 175.301 Applicability.

(a) Sections 175.310 and 175.315 apply to recreational vessels described in § 175.1, which:

(1) Are monohull houseboats;

(2) Use a propulsion drive unit with an exposed propeller located aft of the transom; and

(3) Are designed to be operated in a non-planing manner.

(b) Sections 175.310 and 175.315 do not apply to multi-hull vessels or planing vessels.

§ 175.310 Propeller safety measures for rental houseboats.

(a) If you own a recreational non-planing houseboat and provide it for rent, charter or lease, you must either—

(1) Cover each exposed propeller located aft of the transom with a propeller guard attached in a secure manner; or;

(2) Do all of the following—

(i) Install and maintain an interlock device for each swim ladder;

(ii) Install and maintain a clear visibility aft device that provides a clear view, aft of the vessel from the engine throttle control area; and

(iii) Install and maintain an emergency ignition cut-off switch.

(b) If you operate a rented, chartered, or leased vessel that has an exposed propeller located aft of the transom, you must—

(1) Use all swim ladder interlock devices;

(2) Use a clear visibility aft device that provides a clear view, aft of the vessel from the engine throttle control station; and

(3) Use the emergency ignition cut-off switch.

§ 175.315 Propeller safety measures for non-rental houseboats.

(a) If you own a recreational non-planing houseboat and do not provide it for rent, charter or lease, you must either—

(1) Cover each exposed propeller located aft of the transom with a propeller guard attached in a secure manner; or

(2) Do both of the following—

(i) Install and maintain an interlock device for each swim ladder; and

(ii) Install and maintain a clear visibility aft device that provides a clear view, aft of the vessel from the engine throttle control station.

(b) If you operate a vessel with an exposed propeller located aft of the transom, you must—

(1) Use all swim ladder interlock devices;

(2) Use a clear visibility aft device that provides a clear view, aft of the vessel from the engine throttle control area; and

(3) Use the emergency ignition cut-off switch (if factory installed).

Dated: October 15, 2001.

Terry M. Cross,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Operations.

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 181

[USCG-2001-10299; CGD 95-041]

RIN 2115-AE37

Propeller Injury Prevention Aboard Rental Boats

AGENCY: Coast Guard, DOT.

ACTION: Notice of withdrawal.

SUMMARY: The Coast Guard is withdrawing its proposed rulemaking regarding requirements for manufacturers to prevent propeller strike injuries and terminating

rulemaking under the following Regulatory Identification Number: (RIN) 2115-AE37 (USCG-2001-10299; CGD 95-041). The Coast Guard lacks sufficient data to demonstrate that the benefits of requirements for manufacturers clearly outweigh the costs and burdens.

DATES: This withdrawal of the March 26, 1996 (61 FR 13123) advance notice of proposed rulemaking is made on December 10, 2001.

FOR FURTHER INFORMATION CONTACT: Randolph Doubt, Project Manager, Recreational Boating Product Assurance Division, Office of Boating Safety, 202-267-0981.

SUPPLEMENTARY INFORMATION:

Regulatory History

Initial Notice of Request for Comments. To gather information from the recreational boating public and industry, we published a notice of request for comments in the **Federal Register** in May 1995 (60 FR 25191). We asked the recreational boating public to comment on: (1) The economic and other impacts of establishing a requirement for propeller guards on recreational houseboats and other displacement (non-planing) vessels; (2) suggestions on alternatives to propeller guards that should also be considered; (3) recommendations on the applicability of regulations; and (4) concerns of the livery and charter industries.

We received over 100 comments during the 60-day comment period. Various parties, including the National Association of State Boating Law Administrators (NASBLA) requested an extension of the comment period. To accommodate this request, we published a notice to reopen the comment period for an additional 120-days in August 1995 (60 FR 40545). We received 1,994 comments to this notice, including more than 1,800 form letters that supported a requirement to use propeller guard technology or jet pump propulsion on rental houseboats. An additional 69 comments also supported developing such a requirement. Fifty-seven comments objected to such a requirement. The information received was voluminous, but too general to help us develop a regulation.

Advance Notice of Proposed Rulemaking. We published an advance notice of proposed rulemaking (ANPRM) in March 1996 (61 FR 13123) that asked questions to gather current and specific information about the injuries involving propeller strikes and rented boats. We also announced a series of meetings across the country to

enable the public to express their views. Some of the questions specifically sought out the following information: the appropriate Federal and State roles in reducing propeller strike incidents; whether government intervention is appropriate; and if so, whether it should be directed at the vessels, their manufacturers, their operators, their owners, or the companies leasing such vessels.

Second Notice of Request for Comments. After reviewing available research and the comments from the public, and consulting with the National Boating Safety Advisory Council (NBSAC) at its November 1996 meeting, we published another notice of request for comments in April 1997 (62 FR 22991) and provided a 90-day comment period. We solicited comments on the effectiveness of specific devices and interventions that may reduce the number of recreational boating accidents involving rented powerboats in which individuals are injured by the propeller. We also asked for information about other devices or interventions (propeller injury avoidance measures) that may reduce the severity of injuries to individuals involved in propeller-strike accidents.

The devices or interventions we asked about included: (1) Swimming ladder locations and interlocks; (2) large warning notices to make the operators, passengers and swimmers more aware of the dangers; (3) propeller location wands; (4) clear vision aft to alert operators to the presence of swimmers near the propeller; (5) propeller shaft engagement alarms to alert passengers and swimmers of a rotating propeller; (6) conversion of a standard inboard, outboard, or inboard/outboard engine with a jet pump propulsion engine; (7) ignition cut-off/auto throttle and neutral returns to stop the propeller when the helm is vacated or unattended; and (8) education specifically directed to the location and dangers of propellers. We also solicited comments on propeller guards, and any other devices that might reduce the occurrence or severity of injuries due to propeller strikes. Based on requests from the public, we published a notice that extended the comment period an additional 210 days in August 1997 [62 FR 44507].

Summary of Comments. In response to the ANPRM and the notices, we received 2,027 comments, more than 1,800 of which were form letters and none of which contained information sufficient to support proposing requirements for manufacturers of new recreational boats, nor did they help us determine the estimated burdens and costs to boat manufacturers. Of the total