

DEPARTMENT OF TRANSPORTATION**Coast Guard****33 CFR Subchapters S**

[CGD 97-066]

Federal Requirements for Education in Recreational Boating Safety**AGENCY:** Coast Guard, DOT.**ACTION:** Notice of request for comments.

SUMMARY: The Coast Guard seeks comments from interested people, groups, and businesses about the need for, and alternatives to, Federal requirements or incentives for recreational boaters to take courses in boating safety. It will consider all comments and will consult with the National Boating Safety Advisory Council (NBSAC) in determining how best to reduce the number of deaths among boaters caused by a lack of boating safety training.

DATES: Comments must reach the Coast Guard on or before February 2, 1998.

ADDRESSES: You may mail comments to the Executive Secretary, Marine Safety Council (G-LRA, 3406) [CGD 97-066] U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593-0001, or deliver them to room 3406 at the same address between 9:30 a.m. and 2 p.m., Monday through Friday, except Federal holidays. The telephone number is 202-267-1477.

The Executive Secretary maintains the public docket for this notice. Comments, and documents as indicated in this preamble, will become part of this docket and will be available for inspection or copying at room 3406, U.S. Coast Guard Headquarters, between 9:30 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mike Moore, Project Manager, Office of Boating Safety, Program Development and Implementation Division (202) 267-0577. You may obtain a copy of this notice 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 URL address www.uscgboating.org.

SUPPLEMENTARY INFORMATION:**Background and Purpose**

Through its Recreational Boating Safety Program, the Coast Guard tries to reduce the number of recreational boating accidents. Although recreational use of water has caused fewer and fewer deaths over the last 20 years, these accidents still cause more deaths than any other transportation related activity

except use of roads. These accidents caused 830 deaths in 1995. Eighty-nine percent of fatalities, in accidents involving operators whose level of education the Coast Guard could ascertain, occurred on vessels whose operators had no boating safety education. Most fatal boating accidents were due to hazardous waters, weather, operators' inattention, operators' inexperience, excessive speed, behavior of passenger and water-skiers, and overloading. Current nationally recognized courses in boating safety address these conditions.

Each year the Coast Guard sponsors a national safe boating campaign based on educational methods aimed at encouraging boaters to take courses in boating safety. Such nonregulatory methods of modifying behavior may not by themselves be fully successful. However, the Coast Guard knows from data on boating accidents that State efforts, based on regulatory methods aimed at boating safety education, have been extremely successful.

Request for Comments

The Coast Guard encourages you to submit comments about the need for, and alternatives to, Federal requirements or incentives for boaters to participate in boating safety education. In particular, the Coast Guard encourages you to answer the specific questions which it developed in consultation with members of NBSAC at the meeting in April, 1997. The Coast Guard also solicits comments from all segments of the boating community, State boating safety authorities, NBSAC, the National Association of State Boating Law Administrators (NASBLA), and other interested people, groups, and businesses on the economic and other impacts of Federal requirements or incentives for boating safety education.

Please include your name and address, identify this notice [CGD 97-066] and the specific question or area of concern to which each comment applies, and give the reason(s) for each comment. Please submit two copies of all comments and attachments in an unbound format, no larger than 8½ by 11 inches, to help us with copying and electronic filing. If you want us to acknowledge receipt of your comments, please enclose a stamped, self-addressed postcard or envelope.

A. Recreational Boating by Commenter

1. How much risk do you believe recreational boating involves?
2. Do you agree with the following statement: If I went recreational boating, I would feel safe because I knew the basic rules of the road (navigational

rules) pertaining to the waters I would be using?

3. Would a requirement for taking a course in boating safety likely affect your participation in recreational boating and how would it affect it?

4. Recreational boating varies widely depending on the interest of the individual boater. He or she may own, rent, or be a passenger on a boat; the boat may be powered by hand, sail, or motor; and the reason for boating may be relaxation, transportation, competition, or excitement. Please tell us something about your boating, including how often you go boating, what kind of boating you do, and the kind of water on which you go boating.

5. Please tell us about your experience with recreational boating safety education to this date.

B. Mandatory Recreational Boating-Safety Education

1. Several States have imposed various requirements for recreational boating safety education—by children under 12 years of age, aboard personal watercraft, and so on. What Federal requirements, if any, should the Coast Guard propose for taking courses in boating safety that would ensure uniformity around the country? Should the Coast Guard propose Federal requirements for children, for specific waterways, for personal watercraft, or for any other appropriate category of boaters or boating?

2. What Federal requirements, if any, for taking a course in boating safety should the Coast Guard propose because of higher fatalities in one or more categories of boater, boating, or conditions?

3. What Federal requirements, if any, for taking a course in boating safety should the Coast Guard propose because of higher fatalities involving one or more sizes or kinds of recreational vessels?

4. Statistics for 1995 indicate that there were 66 fatalities for youths under 17 years of age while engaged in recreational boating. What Federal requirements, if any, for taking courses in boating safety should the Coast Guard propose because of higher fatalities corresponding to the ages of the victims?

5. A survey of States' boating laws conducted in 1996 by NASBLA revealed that 20 States impose mandatory boating safety education on youths of various ages. What Federal requirements, if any, should the Coast Guard propose for youths of certain ages to take courses in boating safety before operating vessels?

6. If you know of an instance where a person did not take a course in boating

safety, but where the person or you later wished that person had taken one, please describe the instance.

7. If you know of instances where safety may make taking a course in boating safety unacceptable or undesirable, please describe them.

8. Are you aware of the intended uses and limits of the various kinds of courses in boating safety (classroom, home study, computer) and kinds of evaluations (proctored exams, non-proctored ones) approved by the Coast Guard?

9. What Federal requirements, if any, should the Coast Guard propose for boaters engaged in any particular activities to take courses in boating safety under any conditions?

10. Describe any other boaters, boating, or conditions on whose members the Coast Guard should propose Federal requirements to take courses in boating safety.

C. General

1. What benefits (in terms of personal safety or other terms) do you think would accrue from Federal requirements to take courses in boating safety? What cost (in terms of money, paperwork, inconvenience, or other terms) would accrue from such requirements? Would the cost outweigh the benefits?

2. Please describe any nonregulatory ways to reduce the number of recreational boating deaths due to a lack of boating safety training, at lower costs or with less burden than Federal requirements would entail.

3. Is there any other information you feel may help the Coast Guard reduce the number of deaths due to recreational boating with lower cost to, or lesser burden on, the Coast Guard itself, the States, and, most of all, boaters?

The Coast Guard will summarize all comments it receives during the comment period in response to this notice, place a copy of the summary in the public docket, and provide copies to the members of NBSAC for them to consider at their meeting in April 1998. It will itself consider all relevant comments in the formulation of any regulatory and nonregulatory measures that may follow from this notice.

Dated: October 17, 1997.

Ernest R. Riutta,

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

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DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 20

RIN 2900-A187

Board of Veterans' Appeals: Rules of Practice—Continuation of Representation Following Death of a Claimant or Appellant

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: The Department of Veterans Affairs (VA) proposes to amend the Rules of Practice of the Board of Veterans' Appeals (Board) to eliminate a rule which automatically assigns a deceased appellant's representative to the appellant's survivor. This change is necessary because of a court ruling which eliminates the need for such a provision.

DATES: Comments must be received on or before December 22, 1997.

ADDRESSES: Mail or hand deliver written comments to: Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Ave., NW, Room 1154, Washington, DC 20420. Comments should indicate that they are submitted in response to "RIN 2900-A187." All written comments will be available for public inspection at the above address in the Office of Regulations Management, Room 1158, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays).

FOR FURTHER INFORMATION CONTACT:

Steven L. Keller, Chief Counsel, Board of Veterans' Appeals, Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420 (202-565-5978).

SUPPLEMENTARY INFORMATION: The Board is an administrative body that decides appeals from denials of claims for veterans' benefits.

Currently, Rule 611 (38 CFR 20.611) provides that a person or organization properly designated to represent a claimant or appellant will be recognized as the representative of his or her survivors for a period of one year following the death of the claimant or appellant. This provision was deemed necessary to ensure continuity of representation, since Rule 1302 (38 CFR 20.1302) previously provided that, when an appeal is pending before the Board at the time of the appellant's death, the Board could complete its action on the issues properly before it without application from the survivors. In *Smith (Irma) v. Brown*, No. 95-898 (Vet. App. June 13, 1997), the U.S. Court

of Veterans Appeals ruled that former Rule 1302 is invalid because, pursuant to the court's ruling in *Landicho v. Brown*, 7 Vet. App. 42, 47 (1994), a pending claim for compensation benefits under chapter 11 of title 38, United States Code, does not survive the claimant's death. Thus, when an appellant dies prior to the promulgation of the Board's decision with regard to a compensation claim, the Board no longer has jurisdiction of the appeal, and the appeal must be dismissed. Rule 1302 has been amended to provide that an appeal pending when the veteran dies will be dismissed. Similarly, Rule 611 was amended to eliminate a provision permitting a deceased appellant's representative to continue to act with respect to any appeal pending upon the death of the appellant.

Because there is no longer any need to provide for continuous representation, we propose to eliminate Rule 611.

The Secretary hereby certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601-612. This rule will affect only the processing of claims by VA and will not affect small businesses. Therefore, pursuant to 5 U.S.C. 605(b), this proposed rule is exempt from the initial and final regulatory flexibility analyses requirements of §§ 603 and 604.

List of Subjects in 38 CFR Part 20

Administrative practice and procedure, Claims, Veterans.

Approved: October 8, 1997.

Hershel W. Gober,

Acting Secretary of Veterans Affairs.

For the reasons set out in the preamble, 38 CFR part 20 is proposed to be amended as set forth below:

PART 20—BOARD OF VETERANS' APPEALS: RULES OF PRACTICE

1. The authority citation for part 20 continues to read as follows:

Authority: 38 U.S.C. 501(a).

Subpart G—Representation

§ 20.611 [Removed]

2. In subpart G, § 20.611 is removed and reserved.

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