

determined that this rule does not have implications for federalism under that Order.

#### Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a state, local, or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those costs. This proposed rule would not impose an unfunded mandate.

#### 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

The Coast Guard has 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.

#### Environment

We have considered the environmental impact of this proposed rule and concluded that, under figure 2–1, paragraph 32(g) of Commandant Instruction M16475.1C, this proposed rule is categorically excluded from further environmental documentation. A written categorical exclusion determination is available in the docket for inspection or copying where indicated under **ADDRESSES**.

#### List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR Part 165 as follows:

### PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for Part 165 continues to read as follows:

**Authority:** 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.05–1(g), 6.04–1, 6.04–6 and 160.5; 49 CFR 1.46.

2. Add § 165.908 to read as follows:

#### § 165.908 Safety Zones: Annual fireworks events in the Captain of the Port Chicago Zone.

(a) The following area is designated a safety zone:

(1) Location. The waters off the end of Navy Pier, Lake Michigan, where the fireworks barge will be, bounded by the arc of a circle with a 350-foot radius with its center in the middle of the barge, an approximate position of 41° 53' 18" N, 087° 36' 08" W (NAD 1983).

(2) Effective dates. This regulation becomes effective from 8 p.m. (c.d.t.) to 11 p.m. (c.d.t.) on the Sunday before Memorial and Labor Day; every Wednesday and Saturday from Memorial Day weekend to Labor Day Weekend; and the Fourth of July. If the Fourth of July fireworks are canceled due to inclement weather, the paragraph (a)(1) is effective on July 5th.

(b) *Regulations.* (1) The general regulations contained in 33 CFR 165.23 apply.

(2) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on scene patrol personnel. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the U.S. Coast Guard. Upon being hailed by a U.S. Coast Guard vessel via siren, radio, flashing light, or other means, the operator shall proceed as directed.

(3) The safety zone encompasses a portion of Lake Michigan that is near the entrance to the Chicago River. In cases where shipping is affected, commercial vessels may request permission from the Captain of the Port Chicago to transit the safety zone. Approval will be made on a case-by-case basis. Requests must be made in advance and approved by the Captain of the Port before transits will be authorized. The Captain of the Port may be contacted via U.S. Coast Guard Group Milwaukee on Channel 16, VHF–FM.

Dated: April 20, 2001.

#### R.E. Seebald,

*Captain, U.S. Coast Guard, Captain of the Port Chicago.*

[FR Doc. 01–10716 Filed 4–30–01; 8:45 am]

**BILLING CODE 4910–15–P**

### DEPARTMENT OF TRANSPORTATION

#### Coast Guard

#### 33 CFR Part 175

[USCG–2000–8589]

RIN 2115–AG04

#### Wearing of Personal Flotation Devices (PFDs) by Certain Children Aboard Recreational Vessels

**AGENCY:** Coast Guard, DOT.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to require that children aboard recreational vessels wear personal flotation devices (PFDs), or lifejackets. During 1995–1998, 105 children under 13 died in the water, 66 of them by drowning. This proposed rule should reduce the number of children who drown because they were not wearing lifejackets.

**DATES:** Comments and related material must reach the Docket Management Facility on or before August 29, 2001.

**ADDRESSES:** Identify your comments and related material by the docket number for this rulemaking [USCG–2000–8589]. To make sure they do not enter the docket more than once, please submit them by only one of the following means:

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

(2) By hand-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, at the address listed above 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:** For 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](mailto:cperry@comdt.uscg.mil). For questions on viewing or submitting material to the docket, call Dorothy Beard, Chief, Dockets, Department of Transportation, telephone 202-366-9329.

**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-2000-8589], 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, by hand-delivery, by fax, or electronically to the Docket Management Facility at the address under **ADDRESSES**; but please submit them 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. You may ask for one by submitting a request to the Docket Management Facility at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one 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**

On September 25, 1997, we published in the **Federal Register** a notice of request for comments titled, "Recreational Boating Safety—Federal Requirements for Wearing Personal Flotation Devices" [62 FR 50280]. In that notice, under docket number CGD 97-059, we asked interested people, groups, and businesses about the need for, and alternatives to, Federal

requirements or incentives for boaters to wear lifejackets. On March 20, 1998, we published a second notice with the same title and under the same docket number to extend the comment period to May 29, 1998 [63 FR 13586].

We received over 600 written comments in response to the initial notice. Most opposed any Federal requirements that all boaters wear lifejackets all the time. Yet almost 120 supported Federal or State requirements to wear lifejackets for at least some recreational vessels, boaters, or activities.

After summarizing the comments (copy of the initial notices, public comments, and summary of comments in public docket USCG-1999-6219), we consulted with NBSAC at its meetings in October 1998 and April 1999 regarding the results. NBSAC recommended that we publish another notice of request for comments, one that would focus more on the need to propose rules calling for mandatory wear by children, by operators of Personal Watercraft (PWC), and by people being towed behind recreational vessels.

In deference to NBSAC, we published in the **Federal Register** another notice of request for comments titled, "Recreational Boating Safety—Federal Requirements for Wearing Personal Flotation Devices" [64 FR 53971 (October 5, 1999)]. In that notice, under docket number USCG-1999-6219, we addressed only vessels less than 16 feet in length, which should include specific groups of high-risk recreational vessels, boaters, and activities.

We received almost 600 written comments in response to the second, more focused notice. The comments were mixed: Most opposed broad Federal requirements for wearing lifejackets, a few supported various Federal requirements for selected circumstances, more supported continued States' requirements for use of safety equipment, and a few objected to the inconsistency between or among the several States' requirements.

After summarizing the comments (copy of the initial notices, public comments, and summary of comments in public docket USCG-1999-6219), we again consulted with NBSAC at its meeting in May 2000 regarding the results. NBSAC then recommended that we either expand section 175.15 of title 33 of the Code of Federal Regulations or add a new section to part 175 to require children to wear lifejackets. This section would require children under 13 to wear lifejackets approved by the Coast Guard while aboard recreational vessels

under way, except when the children are below decks or in enclosed cabins.

The number of deaths by drowning of children under 13 has decreased from 27 in 1995 to 11 in 1998. A review of statistics on recreational boating accidents during 1998 showed that the rate of children drowning in States that require children to wear lifejackets (1.22 such drownings for every 1000 accidents) is lower than that of States that do not (1.31 such drownings for every 1000 accidents).

By late 1995, 26 States had enacted statutes requiring children to wear lifejackets while aboard recreational vessels. The requirements, however, were not consistent nationwide, affecting children of different ages, while aboard vessels of different sizes, and under different activities. By late 1999, 36 States had enacted statutes requiring children to wear lifejackets while aboard recreational vessels. The requirements, however, still were not consistent nationwide. They varied by the age for wearing: From under age 18, when the vessel operator is under 18, to under age 6. They varied in other particulars, too: on the sizes of vessels (more than 26 feet in length or less than 65 feet, 26 feet, 19 feet, 18 feet, or 16 feet in length); whether the vessels were under way, in motion, or not specified; and whether the children were on open decks, below decks, or in enclosed cabins.

To improve boating safety and encourage greater uniformity of boating laws, we are proposing a requirement that children under 13 wear lifejackets approved by the Coast Guard while aboard vessels under way, except when the children are below decks or in enclosed cabins. We are nevertheless proposing to adopt the ages at or below which the States require children to wear lifejackets within those States. The existence of a Federal requirement for children to wear lifejackets under specific circumstances, even one that adopted States' thresholds of age, would encourage States to establish their own requirements for children and would draw the several requirements into greater uniformity nationwide.

**Discussion of Proposed Rule**

1. Section 175.3 would add a definition of the term "State" to clarify the applicability of non-Federal requirements and the Federal adoption of those requirements.

2. Section 175.15 would accomplish a minor editorial change and add a new paragraph establishing a requirement for children under 13 to wear lifejackets approved by the Coast Guard while aboard recreational vessels.

3. Subpart B would add a new section 175.25 adopting the ages at or below which the States require children to wear lifejackets while aboard recreational vessels within those States.

The proposed rule would apply only where a State had not enacted such a requirement. It would apply now, therefore, only in Colorado, Guam, Hawaii, Idaho, Indiana, Iowa, Kentucky, Maryland, Minnesota, the Northern Mariana Islands, Nevada, New Mexico, North Carolina, North Dakota, South Dakota, the Virgin Islands, West Virginia, Wisconsin, and Wyoming [See the 1999 edition of the National Association of State Boating Law Administrators, *Reference Guide to State Boating Laws*], and, for recreational vessels owned in the United States, it would apply on the high seas.

**Regulatory Evaluation**

This proposed rule is not a “significant regulatory action” under section 3(f) of Executive Order 12866 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:

*1. Cost of Proposed Rule*

This rule would impose no costs on the boating public. Existing rules require that the carriage of an appropriate PFD for each passenger. Costs to the Government would be non-existent as well because the Coast Guard already trains its Boarding Officers to check safety equipment when boarding recreational vessels.

*2. Benefit of Proposed Rule*

This rule would be appropriate because, even though statistics on boating accidents show that the actual numbers of children under 13 that drowned in recent years were relatively small (14 in 1996, 14 in 1997 and 11 in 1998), these few drownings were avoidable. The rule should reduce the number of children under 13 that drown every year because they are not wearing lifejackets.

This rule would now affect only those States, identified above, that have not enacted requirements for children to wear lifejackets. In those States, there were 7 fatal drownings and 1 moderate and 3 critical near-drowning injuries of children under 13 from 1995 through

1998 that could have been prevented if the children had worn lifejackets. (These numbers may overstate the number of lives that could have been saved if the children had worn lifejackets: Narratives in accident reports may fail to disclose circumstances in which the victims were pinned, for example, and would have drowned anyway. Yet they may just as well understate the number of lives that could have been saved: Many accidents go unreported entirely.)

A memorandum from the Office of the Secretary of Transportation, dated April 29, 1996, sets the value of a fatality averted for use in preparing economic evaluations at \$2.7 million and affirms previous guidance to agencies within the Department to classify injuries as minor, moderate, serious, severe, critical, or fatal. The guidance also assigns to each degree of injury averted a certain fraction of the value of a fatality averted. Therefore, to calculate the value of each degree of injury averted, we multiplied \$2.7 million, the value of a fatality averted, by the fraction assigned to each degree of injury averted.

If we consider a 100% rate of compliance with a requirement for children to wear lifejackets, we can calculate the retrospective benefits of this rule as below:

VALUE OF INJURIES AND FATALITIES FOR STATES WITHOUT EXISTING REGULATIONS

Injury severity	Fraction of value of fatality averted	Value of injuries and fatalities if averted	Number of injuries (1995–1998)	Dollar amount
Minor .....	0.0020	(\$2,700,000)(0.0020) = \$5,400	0	(\$5,400)(0) = 0
Moderate .....	0.0155	(\$2,700,000)(0.0155) = \$41,850	1	(\$41,850)(1) = \$41,850
Serious .....	0.0575	(\$2,700,000)(0.0575) = \$155,250	0	(\$155,250)(0) = 0
Severe .....	(0.1875)	(\$2,700,000)(0.1875) = \$506,250	0	(\$506,250)(0) = 0
Critical .....	(0.7625)	(\$2,700,000)(0.7625) = \$2,058,750	3	(\$2,058,750)(3) = \$6,176,250
Fatal .....	1.0000	(\$2,700,000)(1.000) = \$2,700,000	7	(\$2,700,000)(7) = \$18,900,000
<b>Total .....</b>	.....		<b>11</b>	<b>\$25,118,100</b>

The total value of injuries and fatalities averted for 1995–1998 would have been \$25,118,100. Therefore, the average annual value of injuries and fatalities averted would have been \$6,279,525 (\$25,118,100)/(4 years).

**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 effect 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.

This Federal requirement for children under 13 to wear lifejackets would apply to operators of recreational vessels on waters subject to the jurisdiction of the United States, as defined in 33 CFR 2.05–30. It would continue to apply to operators of recreational vessels owned in the United States, while operating on the high seas (as defined in 33 CFR 2.05–1). Further, since this proposed rule would adopt the ages at or below which States

require children to wear lifejackets, operators of recreational vessels in States with such requirements would not be subject to different requirements within their States, unless the States changed their own: One State, one requirement. Only those operators of recreational vessels either in States without such requirements or on navigable waters of the United States outside States altogether would be subject to the Federal requirement.

Because the Regulatory Flexibility Act does not apply to individuals, the Coast Guard certifies under 5 U.S.C. 605(b) that this 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.

**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**

We have analyzed this proposed rule under E.O. 13132 and have determined that, because the Federal requirement for children under 13 to wear lifejackets would not supersede or preempt any State's requirement for children to wear lifejackets, this rule does not have implications for federalism under that Order. The proposed Federal requirement would apply only in States without such requirements.

**Unfunded Mandates Reform Act**

The Unfunded Mandates Reform Act of 1995 [2 U.S.C. 1531-1538] governs the issuance of Federal rules that impose unfunded mandates. An unfunded mandate is a requirement that a State, a local or tribal government, or the private sector incur direct costs without the Federal Government's having first provided the funds to pay those costs. This proposed rule would not impose an unfunded mandate.

**Taking of Private Property**

This proposed rule would not effect a taking of private property or otherwise have taking implications under E.O. 12630, Governmental Actions and

Interference with Constitutionally Protected Property Rights.

**Reform of Civil Justice**

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of E.O. 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

**Protection of Children**

We have analyzed this proposed rule under E.O. 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule. Nor would it create an environmental risk to health or risk to safety that might disproportionately affect children; on the contrary, it would advance the welfare of children.

**Environment**

We have considered the environmental impact of this proposed rule and concluded that, under figure 2-1, paragraph (34)(a), of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation. The rule would require that certain children aboard recreational vessels wear lifejackets. A Determination of Categorical Exclusion 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:

1. The citation of authority 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 definition in alphabetical order, to read as follows:

**§ 175.3 Definitions.**

\* \* \* \* \*

*State* means a State or Territory of the United States of America, whether a State of the United States, American Samoa, the Commonwealth of the Northern Marianas Islands, the District of Columbia, Guam, Puerto Rico, or the United States Virgin Islands.

\* \* \* \* \*

3. Amend § 175.15 by removing from paragraph (b) the term "PFD's" and adding in its place the term "PFDs", and by adding a new paragraph (c), to read as follows:

**§ 175.15 Personal flotation devices required.**

\* \* \* \* \*

(c) No person may use a recreational vessel unless all children aboard under 13 years old are wearing appropriate PFDs; or—

(1) The children are below decks or in an enclosed cabin; or

(2) The vessel is not under way.

4. Add a new § 175.25 to subpart B, to read as follows:

**§ 175.25 Adoption of States' requirements for children to wear personal flotation devices.**

(a) This section applies to every operator of a recreational vessel on waters within the geographical boundaries of any State that has established by statute a requirement under which children must wear PFDs approved by the Coast Guard while aboard recreational vessels.

(b) If the applicable State's statute establishes an age under which children must wear PFDs, that age, instead of the age provided in § 175.15(c)(2)(i) of this part, applies within the geographical boundaries of that State.

Dated: January 15, 2001.

**Terry M. Cross,**

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

[FR Doc. 01-10840 Filed 4-30-01; 8:45 am]

**BILLING CODE 4910-15-P**

**POSTAL SERVICE**

**39 CFR Part 111**

**Postage Meters and Meter Stamps**

**AGENCY:** Postal Service.

**ACTION:** Proposed rule.

**SUMMARY:** The Postal Service proposes to change Domestic Mail Manual P030 to extend the use of postage meters to include postage-evidencing systems that print information-based indicia.

**DATES:** Comments must be received on or before May 31, 2001.

**ADDRESSES:** Written comments should be mailed or delivered to the Manager, Postage Technology Management, 1735 N. Lynn Street, Room 5011, Arlington, VA 22209-6050. Copies of all written comments will be available at this address for inspection and photocopying between 9 a.m. and 4 p.m., Monday through Friday.

**FOR FURTHER INFORMATION CONTACT:** James Luff, 703-292-3693.

**SUPPLEMENTARY INFORMATION:** Mailers may now use information-based indicia (IBI) to show evidence of postage, as they would letterpress and digital meter stamps. IBI include human-readable information and a USPS-approved two-