

(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

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.

#### Withdrawal

We are withdrawing the rulemaking because of (1) the lack of substantive information about the benefits to society of a requirement for manufacturers to prevent propeller strike injuries, and (2) to simplify the development of a series of new regulatory projects initiated in response to the recent, broader NBSAC recommendations. For these reasons, we are terminating further rulemaking under RIN 2115-AE37 (USCG-2001-10299).

We have placed the public docket (CGD 95-041) for this project into an electronic docket under the Department of Transportation Docket Management System (DMS) under a new docket number: USCG-2001-10299. This new docket number will allow the public to access the early docket records electronically. These early docket records serve as background for new regulatory projects the Coast Guard is initiating in response to recommendations from the NBSAC in its April 2001 meeting.

We are publishing a notice of proposed rulemaking elsewhere in this issue under RIN 2115-AG18 (USCG-2001-10163). This rulemaking is the first of a series of separate regulatory projects initiated in response to the recent NBSAC recommendations.

Dated: October 15, 2001.

**Terry M. Cross,**

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

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 51

[CC Docket No. 01-321; FCC 01-339]

#### Performance Measurements and Standards for Interstate Special Access Services

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** This document seeks comment on whether the Commission should adopt a select group of performance measurements and standards for evaluating incumbent local exchange carrier (incumbent LEC) performance in the provisioning of special access services. These comments will assist the Commission in ensuring

that these services are provisioned in a just, reasonable, and nondiscriminatory manner.

**DATES:** Comments are due January 9, 2002, and Reply Comments are due January 30, 2002.

**FOR FURTHER INFORMATION CONTACT:** Jon Reel, Attorney Advisor, Policy and Program Planning Division, Common Carrier Bureau, (202) 418-1580.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Notice of Proposed Rulemaking (NPRM) in CC Docket No. 01-321, FCC 01-339, adopted November 16, 2001, and released November 19, 2001. The complete text of this Notice of Proposed Rulemaking is available for inspection and copying during normal business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY-A257, Washington, DC, 20554. This document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554, telephone 202-863-2893, facsimile 202-863-2898, or via e-mail [qualexint@aol.com](mailto:qualexint@aol.com). It is also available on the Commission's website at <http://www.fcc.gov>.

#### Synopsis of the Notice of Proposed Rulemaking

1. *Jurisdiction and Enforcement.* The Commission has broad authority to establish national performance measurements and standards for special access services pursuant to sections 201, 202, and 272 of the Act. The Commission seeks comment on how, if the Commission were to adopt special access measures and standards, the state commissions might participate in enforcing these requirements. The Commission also seeks comment on whether and to what extent the Commission should exercise the fully panoply of enforcement mechanisms available to it under the Act to enforce any national measurements and standards it may adopt.

2. *Performance Measures and Standards.* In this NPRM, the Commission seeks comment on whether the Commission should adopt interstate special access measures and standards at this juncture. It seeks comment on whether national measurements, standards, and reporting requirements for special access provisioning should apply to all incumbent LECs, or should exclude small, rural or midsized incumbent LECs. The Commission also seeks comment on whether the proposed performance measurements and standards for unbundled network