

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 amends 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, 160.5; 49 CFR 1.46.

2. Add new § 165.T11-036 to read as follows:

##### § 165.T11-036 Security Zone: Waters Adjacent to Camp Pendleton, California

(a) *Location.* The following area is a security zone: All waters and shoreline areas within the following boundaries: A point on the shore at 33°-15'30" N, 117°-26'14"- W (Point A); proceeding westward to 33°-15'24" N, 117°-30'45" W (Point B); then north westward to 33°-18'30" N, 117°32'55" W (Point C); then eastward to the shore at 33°-18'42" N, 117°-29'00" W (Point D); thence along the shoreline to the point of beginning.

(b) *Effective dates.* This security zone will be in effect from 12:01 a.m. (PDT) on March 22, 2002, to 11:59 p.m. (PST) on April 15, 2002. If the need for this security zone ends before the scheduled termination time and date, the Captain of the Port will cease enforcement of the security zones and will also announce that fact via Broadcast Notice to Mariners and Local Notice to Mariners.

(c) *Regulations.* In accordance with the general regulations in § 165.33 of this part, no person or vessel may enter or remain in the security zone established by this temporary regulation, unless authorized by the Captain of the Port, or his designated representative. All other general regulations of § 165.33 of this part apply in the security zone established by this temporary regulation. Mariners requesting permission to transit through the security zones must request authorization to do so from the Captain of the Port, who may be contacted at (619) 683-6495, or U.S. Navy Force Security Officer (FSO), who may be reached during normal working hours at (619) 437-9828. After normal working hours the FSO can be reached at (619) 437-9480.

(d) The U.S. Navy may assist the U.S. Coast Guard in the patrol and enforcement of this security zone.

Dated: March 15, 2002.

**S.P. Metruck,**

*Commander, U.S. Coast Guard, Captain of the Port, San Diego, California.*

[FR Doc. 02-7355 Filed 3-26-02; 8:45 am]

**BILLING CODE 4910-15-U**

#### DEPARTMENT OF TRANSPORTATION

##### Coast Guard

##### 33 CFR Part 173

[USCG 1999-6094]

RIN 2115-AF87

##### Raising the Threshold of Property Damage for Reports of Accidents Involving Recreational Vessels

**AGENCY:** Coast Guard, DOT.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard removes a suspended provision, which would have required the public to report collisions of recreational vessels involving two or more vessels, regardless of the amount of damage to property. This removal streamlines reporting criteria and reduces paperwork burdens on the public, the States, and the Coast Guard, for accidents causing minor or cosmetic damage. The remaining provision, which requires the public to report damage to vessels and other property when it totals \$2,000 or more or there is a complete loss of any vessel, is in effect as published.

**DATES:** Effective March 27, 2002.

**ADDRESSES:** Comments and materials received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG 1999-6094 and are available for inspection or copying at the Docket Management Facility, U.S. Department of Transportation, room PL-401, 400 Seventh Street SW., Washington, DC, between 10 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202-366-9329. You may also find this docket on the Internet at <http://dms.dot.gov>.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, contact Bruce Schmidt, Project Manager, Office of Boating Safety, Program Management Division, Coast Guard, by e-mail at [bschmidt@comdt.uscg.mil](mailto:bschmidt@comdt.uscg.mil) or by telephone at 202-267-0955.

If you have questions on viewing the docket, call Dorothy Beard, Chief,

Dockets, Department of Transportation, telephone 202-366-9329.

You may obtain a copy of this rule by calling the U.S. Coast Guard Infoline at 1-800-368-5647 or by accessing either the Web Site for the Office of Boating Safety, at <http://www.uscgboating.org>, or the Internet Site for the Docket Management Facility, at <http://dms.dot.gov>.

#### SUPPLEMENTARY INFORMATION:

##### Background and Purpose

The National Association of State Boating Law Administrators (NASBLA) is a professional association whose members include officials of States, commonwealths, and provinces. These officials are responsible for administering and enforcing the boating laws of their jurisdictions. The Boating Accident Investigation, Reporting, and Analysis Committee (BAIRAC) is a subcommittee of NASBLA and is responsible for the reporting and analysis of accidents.

The Boating Law Administrators (BLAs) who serve on BAIRAC are experts in enforcement, education for boating safety, and investigation of boating accidents. Through their experience with and knowledge of various types of boat damage and subsequent repair costs, they strongly encouraged the Coast Guard to raise the threshold of property damage for reports of accidents involving recreational vessels to a level that reflects current prices of boats and costs of repair.

BAIRAC asked the Coast Guard to initiate a rulemaking that would change the threshold for reports of accidents involving only property damage from \$500 to \$2,000 and would amend the reportable conditions to include all accidents involving collisions of multiple vessels. While the Coast Guard concurred that a threshold of \$2,000 for those accidents involving only property damage would enable States' accident investigators to focus on reports of safety-related damage and eliminate most of the reports of cosmetic damage, we needed to study the feasibility of requiring the reports of all multi-vessel accidents.

Data within the Boating Accident Report Database (BARD) for 1998 show that 1,718 reported multi-boat collisions involved only property damage. Of those 1,718, 1,002 involved property damage below the proposed threshold of \$2,000. Taking a closer look at the data, we discovered that nearly 90% of those 1,002 involve property damage at or below a threshold of \$1,500. We considered most of these more cosmetic than safety-related. So, recognizing the

need to reduce the number of reports for minor or cosmetic damage, the need to reduce the administrative burden on the public and the States of reports for such damage, and the need for States' accident investigators to focus on safety-related damage, we did not mandate reports of all multi-boat collisions at that time.

After we published our Notice of Proposed Rulemaking (NPRM), we received five comments that urged us to include a provision that required reports of all multi-vessel collisions because most of these accidents are caused by boat operators who violate navigation rules. As first written, our Final Rule would have raised the reporting threshold to \$2000, yet also have required that all multi-vessel accidents must be reported; however, shortly after the publication date, though before the effective date of the Rule, we received a comment that recommended that we suspend the provision to require reports of multi-vessel collisions. The commenter indicated that his State could not comply with the Rule because his State did not require such reports, nor could the legislature in his State meet before the effective date of the Rule. (All States currently require owners or operators to report accidents costing \$500 or more; however, few States require them to report all accidents. To change this, each State's legislature would have to vote to require reports of all multi-vessel accidents.) While the portion of the Rule that raised the threshold went into effect as planned, we suspended the multi-vessel provision and requested comments. On the basis of the feedback we received from that Notice of Suspension, we are removing the suspended provision.

This Rule will raise the threshold of property damage for reports of accidents involving recreational vessels (including multi-vessel accidents) from the current level of \$500 to \$2000. This higher threshold will reduce the numbers of reports of accidents involving minor or cosmetic damage and reduce the burden of paperwork on the boating public, the States, and the Coast Guard itself.

#### Regulatory History

We published an NPRM [65 FR 38229 (June 20, 2000)]. In it, we proposed to raise the threshold of reporting accidents from \$500 to \$2000. To it, we received seventeen comments. Twelve of them supported raising the threshold of property damage to \$2,000; five of those twelve also supported requiring the reporting of all accidents involving collisions of two or more vessels, regardless of the amount of property damage. The five not among the twelve

opposed raising the threshold of property damage at all.

We decided to move forward with our plan to raise the reporting threshold to \$2000. On the basis of comments submitted by NASBLA and BAIRAC, we also planned on requiring reports of all accidents involving collisions of two or more vessels, regardless of the amount of property damage, because boat operators who violate a navigation rule cause most of these accidents. We published a Final Rule to codify these plans [66 FR 21671 (May 1, 2001)].

Shortly after publication of the Final Rule, we received a comment that indicated that many States would be unable to comply with the requirement to report all multi-vessel accidents, because few States have such a requirement in their books, few States have statutory authority to require such reports, and many States' legislative calendars preclude compliance by the published effective date, July 2, 2001.

In response to this comment, we suspended the provision that required the reporting of all multi-vessel accidents, and we requested further comments [66 FR 33844 (June 26, 2001)]. We reopened the comment period to accommodate a request by NASBLA, so they could meet as a body and forward their official comment to us [66 FR 53754 (October 24, 2001)]. On the basis of the comments we received, we are removing the provision we suspended, which would have required the reporting of all multi-vessel accidents; and, though it is already in effect, we are finalizing the remainder of the rule: report damage to vessels and other property that totals \$2,000 or more and report the complete loss of any vessel.

#### Discussion of Comments and Changes

We received a total of nine comments to our Partial Suspension of Rule; Request for Comments. One comment was submitted to this docket in error; another requested that we reopen the comment period; therefore, we analyzed a total of seven comments.

While all commenters were concerned with either safety, reporting efficiency, or both, their approaches to achieve these goals varied. Three commenters indicated that they do not favor removing 33 CFR 173.55(a)(3)(ii), that is, they prefer requiring reports on all multi-vessel accidents, regardless of cost. One of these three indicated willingness to compromise by keeping the reporting threshold for multi-vessel accidents at \$500.

Two of the three comments in favor of requiring reports of all multi-vessel accidents, regardless of the amount of

damage to property, came from State Boating Law Administrators (BLAs). One indicated that suspending the effective date for a year would be acceptable in giving the States time to gain statutory authority to require reports of multi-vessel accidents. The second was concerned that many multi-vessel accidents involving smaller boats would go unreported. The third thought that, without reports of these accidents, it would be difficult to determine whether a safety problem exists. After thoughtfully considering the three comments, the Coast Guard decided that the prospect of all States' getting statutory authority to uniformly require reports of multi-vessel accidents is not realistic either from a logistical or from a legislative perspective.

Two BLA commenters indicated that they do favor removing the provision, because their States would not have the statutory authority to require reports of all multi-vessel accidents. These two indicated that changing their States' laws to eliminate the value of property damage for multi-vessel accidents would be difficult and time-consuming. They recommend keeping the reporting threshold for multi-vessel accidents at \$500 since all States maintain at least a \$500 reporting threshold and, therefore, legislation would be unnecessary for reporting multi-vessel accidents at that level. After thoughtfully considering these two comments, the Coast Guard decided that a uniform threshold of \$2,000 for reports of property damage that includes multi-vessel accidents would be better understood by those individuals required to file accident reports.

Another commenter favored removing the provision out of concern for our workload.

We agree that the requirement to report multi-vessel accidents would create an undue burden for those required to process all reports of multi-vessel accidents in each State.

NASBLA wrote to the docket and requested that we reopen the comment period so they could discuss this rulemaking at their next scheduled meeting. We did to accommodate their request. NASBLA (whose subcommittee, BAIRAC, had recommended that the Coast Guard raise the reporting threshold in the first place) indicated that a majority of their members voted to recommend removing the provision and to uniformly report all accidents with \$2,000 or more in property damage including two-vessel collisions. On the basis of the comments we received, especially that of NASBLA, which represents boating authorities of all 50 States and the U.S. Territories, we are

removing the provision that requires all multi-vessel collisions to be reported. Therefore, as previously published in the Final Rule, regardless of whether multiple vessels are involved, an accident report is required only when damage to vessels and other property totals \$2,000 or more or there is a complete loss of any vessel.

While the threshold of \$2,000 for reports of accidents with only property damage now becomes the minimum set by Federal rule, States remain free to impose stricter requirements. Thus, a State could require reports of accidents involving collisions of multiple vessels, even if they resulted only in property damage below the threshold of \$2,000.

Also note that, if, after an accident, a vessel valued at less than \$2000 is a complete loss, that too must be reported. The Coast Guard will continue to collect, analyze, and report data so that, together with the States, industry, and public, we can enhance the safety of recreational boating.

#### List of Subjects in 33 CFR Part 173

Marine safety, Reporting and recordkeeping requirements.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 173 as follows:

### PART 173—VESSEL NUMBERING AND CASUALTY AND ACCIDENT REPORTING

#### Subpart C—Casualty and Accident Reporting

1. The citation of authority for part 173 continues to read as follows:

**Authority:** 31 U.S.C. 9701; 46 U.S.C. 2110, 6101, 12301, 12302; OMB Circular A-25; 49 CFR 1.46.

#### § 173.55 [Amended]

2. Revise § 173.55(a)(3) to read as follows:

#### § 173.55 Report of casualty or accident.

(a) \* \* \*

(3) Damage to vessels and other property totals \$2,000 or more or there is a complete loss of any vessel;

\* \* \* \* \*

Dated: March 20, 2002.

**Kenneth T. Venuto,**

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

[FR Doc. 02-7235 Filed 3-26-02; 8:45 am]

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## 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:** Final rule; notice of withdrawal.

**SUMMARY:** The Coast Guard is withdrawing the Final Rule on the wearing of PFDs by certain children aboard recreational vessels. It needs to reconsider the extent, if any, to which its rule should supersede States' rules that are compatible in most respects, but that are divergent in some. It hopes to save children's lives on the water and yet accord our system of federalism "full faith and credit."

**DATES:** This final rule amending 33 CFR part 175 published on February 27, 2002 [67 FR 8881] is withdrawn as of March 27, 2002.

**ADDRESSES:** Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG-2000-8589 and are available for inspection or copying at the Docket Management Facility, U.S. Department of Transportation, room PL-401, 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>.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this final rule, call Carl Perry, Coast Guard, telephone: 202-267-0979. If you have questions on viewing the docket, call Dorothy Beard, Chief, Dockets, Department of Transportation, telephone 202-366-5149.

#### SUPPLEMENTARY INFORMATION:

##### Regulatory History

On May 1, 2001, we published in the **Federal Register** [66 FR 21717] a notice of proposed rulemaking (NPRM) entitled, "Wearing of Personal Flotation Devices (PFDs) by Certain Children Aboard Recreational Vessels". We received 46 letters commenting on the proposed rule. No public hearing was requested and none was held.

The NPRM followed two published notices of request for comments, both titled "Recreational Boating Safety-

Federal Requirements for Wearing Personal Flotation Devices," under the docket number CGD 97-059. The first appeared in the **Federal Register** on September 25, 1997 [62 FR 50280]; the second, which extended the comment period, on March 20, 1998 [63 FR 13586]. The comments received in response to these notices were discussed in the NPRM.

After summarizing the comments received in response to the NPRM, we consulted the National Boating Safety Advisory Council (NBSAC) at its meeting in October 2001 regarding the results. NBSAC recommended that we proceed to publish a final rule, as proposed.

We published a final rule in the **Federal Register** on February 27, 2002 [67 FR 8881] establishing two Federal requirements. The first was for children under 13 aboard recreational vessels to wear PFDs, while the children are on deck and their vessels are underway. The second adopted any age requirement enacted or adopted by a State age requirement as the Federal age requirement, within the States. The rule did not formally address the various limits such as those related to length of vessel, by which some States qualified the applicability of their age requirements. We did not consider these differences between Federal and State requirements, according to vessel length, to be a problem. The rule would have been effective on March 29, 2002.

#### Withdrawal

After the rule was published, a State's Boating Law Administrator alerted us to potential enforcement problems resulting from these differences. At the same time, as we prepared guidance for our boarding officers on the fine points of enforcement, we observed the same potential enforcement problems with the differences. We decided that we needed to withdraw the Final Rule as it stood and fix it.

Therefore, we are withdrawing the final rule [67 FR 8881] and are revising some of its provisions. We are determining how to resolve the differences between Federal and State requirements and will notify the public and publish our decision in the **Federal Register**.

Again, we need to reconsider the extent, if any, to which our rule should supersede States' rules that are compatible in most respects but that are divergent in some, such as vessel length. We will do this in candor because we are dedicated to maintaining the public trust.

Meanwhile, we ask parents to ensure that children under 13 wear Coast