

the installation process (which usually lasts one to two weeks) requires great precision, it is appropriate that all vessels be excluded from the safety zone except construction or attending vessels. A hazard would exist to the structure, its personnel and attending vessels if other vessels were allowed to navigate too near the platform. The Commander, Eleventh Coast Guard District has therefore established this safety zone and regulation.

In consideration of the foregoing, Title 33, Code of Federal Regulations, Subpart 147.05—OCS Safety Zones is hereby amended by adding a new § 147.05—11.03.

Subpart 147.05—OCS Safety Zones

§ 147.05—11.03 Platform Ellen safety zone, Gulf of Santa Catalina

(a) Description: The area within a circle of 500 meters in radius around the point located at Latitude 33°-34'-57" N, Longitude 118°-07'-41" W, during the installation phase and then the area within 500 meters around the structure's outer edge after the structure is in place.

(b) Regulations: No vessel may enter or remain in this safety zone except the following: (1) Vessels involved in the installation and construction of Platform Ellen, (2) vessels which normally attend platform Ellen or (3) vessels authorized by the Commander, Eleventh Coast Guard District.

(c) Effective Date: This safety zone and its related regulations are effective on and after 1 December 1979.

[Sec. 633, 63 Stat. 545, Sec. 4(e)(1), 67 Stat. 463, Sec. 6(b)(1), 80 Stat. 938; 14 USC 633; 43 USC 1333(e)(1), 49 USC 1655(b)(1); 49 CFR 1.46(b); 33 CFR 147.01 in conformance with Paragraphs 2, 3, 6 and 7 of Article 5, Convention on the Continental Shelf (TIAS 5578) and Article 2, Convention on the High Seas (TIAS 5200)]

H. W. Parker,

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

[FR Doc. 79-38578 Filed 12-14-79; 8:45 am]

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33 CFR Part 175

[CGD 76-183]

Equipment Requirements

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is requiring that all boats carrying six or less passengers for hire and all recreational boats 16 feet or greater in length be equipped with visual distress signalling devices at all times when operating on coastal waters. Additionally, boats less

than 16 feet will be required to carry visual distress signals when operating on coastal waters at night. The intent of the regulation is to assure that boaters have the means to secure assistance when in distress before an otherwise minor marine casualty or engine failure results in a fatality.

EFFECTIVE DATE: January 1, 1981.

FOR FURTHER INFORMATION CONTACT: LCDR H. F. Schmecht, Office of Boating Safety (G-BLC-3/TP42), Room 4308, Department of Transportation, Coast Guard Headquarters, Washington, D.C. 20593, 202-426-4177.

SUPPLEMENTARY INFORMATION: A Notice of Proposed Rulemaking was published in the *Federal Register* of April 10, 1978 (43 FR 15118). The comment period on that proposal (CGD 76-183) ended on August 8, 1978. The preamble to CGD 76-183 noted that associated proposals concerning Coast Guard approval specifications for visual distress signals would be published in a future issue of the *Federal Register*. Those proposals appeared in the *Federal Register* of October 23, 1978 (43 FR 49440) as CGD 76-183a, CGD 76-048, CGD 76-048a, and CGD 76-048b, and at that time the comment period on CGD 76-183 was reopened to run concurrently with the other proposals and closed on December 22, 1978.

Public meetings on the proposed regulations were held in six coastal and Great Lakes cities. Comments received at the hearings were included in the docket.

The National Boating Safety Advisory Council has been consulted and its opinions and advice have been considered in the formulation of this rule. The transcript of the proceedings of the meetings of the National Boating Safety Advisory Council at which this rule was discussed is available for examination in Room 4224, U.S. Coast Guard Headquarters, Trans Point Building, 2100 Second Street, S.W., Washington, D.C. The minutes of the meeting are available from the Executive Director, National Boating Safety Advisory Council, c/o Commandant (G-BA/TP42), U.S. Coast Guard, Washington, D.C. 20593.

Drafting Information

The principal persons involved in drafting this proposal are: Mr. D. R. Gauthier, Project Manager, Office of Boating Safety, and Lt. J. T. Orchard, Project Attorney, Office of the Chief Counsel.

Discussion of Major Comments

Slightly over 150 comments were received. The bulk of these comments,

over 68%, were from individual boaters and an additional 13% of the total comments received were from persons representing boating clubs or organizations. The comments from individual boaters were evenly split between those generally supporting the proposal and those generally opposed. 75% of the comments from boating groups or clubs were in favor of the proposal and only 10% of such comments were opposed. The remainder in this group expressed concerns for the standards of accepted devices without expressing either support or opposition to the proposed carriage requirements.

The remaining comments were from industry representatives (11%) and other Federal and State agencies (8%). Industry comments were nearly unanimous in support of the proposal. State agencies which commented were evenly divided in support or opposition to the proposal.

Pyrotechnics as a Hazard

A major problem frequently raised by the commenters (25 comments) was a concern for the safety of the pyrotechnic signalling devices. Most persons who made that comment used it to argue against the regulation.

The concern over the safety of pyrotechnic devices now on the market was one of the reasons the Coast Guard determined the regulation to be necessary. Pyrotechnics are effective and internationally recognized distress signals (Convention on Safety of Life at Sea; The International Regulations for the Preventions of Collisions at Sea). Approximately one quarter of all boaters already carry them. Since pyrotechnic devices are being used, and increased use of safe visual distress signals could save lives, the Coast Guard proposal was based on determining which devices would be effective while providing an acceptable level of safety when used aboard recreational boats.

This regulation and the accompanying specifications, contain provisions intended to assure that certain reliability and performance criteria are met by manufacturers of signals intended for use in compliance with the carriage requirement. Those specifications are published in CGD 76-183a, and 76-048 a and b in this issue of the *Federal Register*.

The Coast Guard is still concerned about the slag produced when a hand held flare is burned and the hazards which that introduces on board a recreational boat. More research is being done into suitable performance specifications which will limit the amount of slag. The Coast Guard has

therefore deleted the hand held flare from the list of devices accepted for carriage on boats until those performance specifications are published. The Coast Guard intends to add hand held flares to the list of acceptable signals as soon as satisfactory performance specifications can be developed. The Coast Guard will consult with a subcommittee of the National Boating Safety Advisory Council (NBSAC) in the development of specifications for the hand held flares.

Also, the Coast Guard has structured the regulation so that boaters who continue to have a concern for the safety of pyrotechnic devices may select non-pyrotechnic alternatives which meet the carriage requirement; i.e., S-O-S lights at night and orange flags during the day.

The Coast Guard believes that design and performance standards for pyrotechnics, and the provision for alternative devices for boaters who do not wish to use pyrotechnics, adequately address these comments.

Excessive Regulation

Many commenters (19) take exception to the philosophy of regulation, expressing frustration at Federal regulations in general and the pervasiveness of Federal regulation in the marine environment in particular. These commenters stressed the independence of the boater. A typical comment was: "If one chooses to go sailing . . . he has no right to expect anyone else, especially the government, to save him." Many of these comments stress education rather than regulation as the proper role of government.

Education is an attractive alternative to regulation; however, in this instance education alone would not assure the quality of devices or allow for the standardization of signals.

The National Boating Safety Advisory Council has advised the Coast Guard on several occasions, and with near unanimity, that there is a need for boaters to carry visual distress signalling devices. Boating accident statistics and Search and Rescue (SAR) report data indicate that many lives could be saved each year if boaters carried reliable signalling devices and used those devices effectively. While some individual boaters might express the view that they do not expect anyone, including the government, to assist them, experience has shown overwhelmingly that prompt rescue efforts are expected, often at considerable expense to the government. Requiring boaters to carry signalling devices should make these efforts more successful and of shorter duration.

Excessive Costs

Eleven persons commented that the cost to the boater for compliance would be too high. They predicted that the proposed approval procedures would sharply increase the cost of existing devices.

The Coast Guard economic evaluation projects that the boater will be able to purchase safe, effective devices in the number required for under \$10. This figure is for minimum compliance with the regulations and would be for devices good for three years. Some boaters, particularly the offshore boater, may want to spend more on devices above the minimum requirement.

The Coast Guard recognizes that the approval procedure will probably lead to some increase in costs. However, such an increase is considered acceptable if it insures that safer and more reliable devices will be available to the consumer. By increasing lot sizes, and by allowing manufacturers to rework rejected lots, increases in costs can be kept to a minimum. This issue is discussed in more detail in CGD 76-048a and 048b, in this issue of the **Federal Register**

Unenforceable Regulation

Five commenters contended that the rule would be unenforceable because of its complexity. These commenters believe the rule creates artificial distinctions between classes of boats and types of waters to which the rule applies, so that the boater will not know when and where he is affected. Also, they argue that the range of devices is so broad, with distinctions made between approved and certified devices, that the boater will not know what to carry.

A simple, all encompassing rule, specifying the devices which must be carried, might be more clearly understood. However, this approach would be contrary to the intent to promulgate only a minimum requirement and to permit the boating public maximum choice in selecting signals. The Coast Guard does not expect major enforcement problems since many requirements such as navigation lights, sound signalling devices, marine sanitation devices, and fire extinguishers vary with the type of boat or waters and these differing requirements have been enforceable.

Applicability

Eleven commenters suggested including boats under 16' at all times, citing the potential for these boats to get into serious trouble. Coast Guard SAR and accident statistics do not indicate a need for such an extension of the

regulation. Boats under 16' are a small portion (12%) of the Coast Guard's SAR workload even though they make up over 50% of the total number of boats in the United States. Many of these smaller craft operate near to the shore or in close proximity to other boaters and Coast Guard statistics indicate that the benefits of requiring these boaters to carry distress signals would be minimal. The cost to the boating public of the additional requirement, however, would be substantial. Adding the requirement would result in an additional 1.5 million boats being included, escalating the cost of the regulation with little increase in the benefits.

It should be noted that boats under 16' are required to carry night visual distress signals when operating on coastal waters between sunset and sunrise and the Coast Guard recommends that all prudent mariners carry signalling devices whether required or not. All boaters will benefit indirectly from the regulation since the Coast Guard's approval system will improve the reliability and safety of the available devices.

Seven commenters, notably the United States Yacht Racing Union, suggested that the requirements not apply to sailboats without cabin facilities. Many completely open sailboats over 20' are used strictly for day sailing or racing. Since storage space on these boats is minimal, and because these boats are not normally used in situations where there is a need for a signalling device, the comment was accepted. In adopting this comment, the Coast Guard determined that the exception should apply only to boats of completely open construction, and only during the day. This exception will apply to a small portion of the boats otherwise subject to this rule.

There were several comments to exclude boats under 16' completely, or to include only larger (20' or 26') boats. These arguments cite primarily the perceived hazard of a pyrotechnic device on a small boat without adequate storage. The Coast Guard has recognized that some boaters are concerned about pyrotechnics and so has provided that the requirements, both day and night, could be met without carrying pyrotechnic signals. The Coast Guard's decision to include boats under 16' at night is supported by boating accident statistics. It is not that a boater is more likely to get into serious trouble at night, however, a boater in trouble at night is less likely to be within sight of assistance.

If the boats affected were limited to larger length boats the cost/benefit ratio, in terms of dollars per life saved,

would improve. However, though the ratio improves, the total number of lives saved decreases. If the rule applied only to boats over 26 feet, 10 to 15 lives per year could be affected, but as proposed, 40 to 50 lives annually could potentially be saved. Also, if the regulation applied to a small number of boats the manufacturers of distress signals would have less incentive to produce devices meeting Coast Guard standards.

Thus, the Coast Guard has decided not to change the applicability of the proposal except to exclude sailboats of open construction between sunrise and sunset.

Coastal Waters

Several comments pointed out ambiguities in the proposed definition of coastal waters in § 175.105(b). There have been some slight changes to clarify the meaning. Coastal waters include the territorial seas and the Great Lakes. Additionally, bays and sounds which, either directly or indirectly, open onto the Great Lakes or territorial seas are included. Other bodies of water, such as marshes, bayous, or salt water ponds, are not included. Rivers are not included unless the distance across the mouth or the river is greater than two miles. In that case, the river would be included in coastal waters from the headlands up to the first point where the width of the river narrows to less than two miles.

Accepted Devices

Meteor. Six commenters suggested that red aerial pyrotechnic flares be approved as day and night signals. These commenters cite instances during the day in which the meteor was particularly effective. One commenter cited a personal experience in low lying fog where visibility was under 100 yards on the water, but the meteor, because it rose above the fog, attracted the attention of a Coast Guard station two miles from the signal. Another commenter stated that red aerial flares saved his life. He contends it would be wrong to accept these devices only at night.

The Coast Guard considered these comments, and noting the brilliance of the aerial meteor, its height above the water, its attention attracting movement, and its ready recognition, the Coast Guard has changed the proposal accordingly. The minimum candle-minute requirement for the aerial is the same as that of the hand held red flare, a device which is proposed to be approved for day and night use. There are some conditions for which the meteor may not be the most effective device; however, that is true for all approved devices. The boater must

weigh the advantages and disadvantages of any signal when selecting devices.

Manual S-O-S Light. Five commenters suggested the Coast Guard not include a manually keyed S-O-S signalling light as an approved device. The early discussions of a distress signal regulation by the NBSAC focused on pyrotechnics. In January 1975, a NBSAC sub-committee recommended the adoption by the Coast Guard of the American Boat and Yacht Council recommended carriage requirement of: 3 hand held flares; 3 meteors; and 3 hand held smokes. It was not until the November 1975 NBSAC meeting that the inclusion of electric lights was first discussed.

The Coast Guard developed the "flag and flashlight" as an inexpensive alternative to pyrotechnics. This option was considered particularly important since many comments indicated that some boaters did not want to carry pyrotechnics and the Coast Guard wanted to provide maximum freedom of choice to the consumer. In order to insure that the boater who chose this option would be provided with an adequate signal, the Coast Guard proposed that the "flashlight" meet requirements for waterproof integrity and signal strength and duration. The marine lantern which meets these requirements would cost the consumer an estimated seven to ten dollars.

An alternative automatic S-O-S keying light was also proposed. The cost for the automatic light to the consumer would be three to seven dollars more.

Comments on the light with a manually generated signal have pointed out the difficulty an average boater in a distress situation has in producing a recognizable S-O-S signal, especially over a long period of time. Other comments pointed out the potential for multiple uses of the manually keyed device which could result in the light being unable to meet performance criteria when needed.

The Coast Guard believes there will be no lack of manufacturers for the automatic S-O-S signal, particularly since it would not have the distribution problems associated with pyrotechnics.

The effects of dropping the manually keyed light from the visual distress signal "shopping list" cannot be estimated because consumer response to the regulation is still not known. Those boaters who do choose a light over pyrotechnics, however, would be better served by an automatic light. An S-O-S signal must be displayed consistently over a period of time to be recognized as a call for assistance. The haphazard signal possible from a

manual light, particularly if the signaller is distracted by the distress situation, is too easily confused with other lights in the marine environment.

In addition, the specification (in CGD 76-183a) has been modified so that the light cannot be left on in the continuous beam mode.

Therefore, the light is less susceptible to battery drain from misuse. With this feature, the automatic S-O-S light is not likely to be used for other than emergency signalling, thereby providing better assurance that it will be available when needed.

In the fall 1977 survey of NBSAC members, the Council found no difference in effectiveness between the manual and automatic S-O-S lights though the move to only automatic S-O-S lights was never discussed. Most council members, however, were willing to go to a cost per boat of \$10/yr. for compliance if needed to establish standards for more effective devices.

Considering these comments, the Coast Guard has decided to accept only an automatic S-O-S light to comply with the carriage requirement.

Strobe Lights, Mirrors, Balloons. Many other devices were suggested, several of which were discussed in the preamble to the notice. All these devices, along with dyes or chemical lights, may be effective in aiding searchers, however, in all cases the Coast Guard found the suggested device either lacks universal recognition as a distress signal or is useful only in restricted circumstances. Any of these devices may be carried as additional equipment, providing some signalling capability beyond the minimum requirements of the regulation. However, the Coast Guard believes that none of these special purpose devices used by themselves meet the minimum requirements for an effective signal. Thus, no additional devices were added to the list of accepted visual distress signals.

Grandfather Clause

Commenters pointed out that existing non-approved pyrotechnics are not marked for "marine use" as required by the proposed § 175.135 which permits the use of some existing equipment until July 1, 1982. The Coast Guard therefore determined that the requirement that existing devices be marked for "marine use" was unreasonable. It has been deleted from this final rule.

Signal pistols have been added to the list of devices covered by the grandfather clause. This has been done so that the extra expense involved in replacing a pistol could be spread over several boating seasons.

Additional editorial changes, not affecting the substance of the proposal, have been made. Section 175.110 has been reworded to clarify the intent that the boater may choose to carry some signals for day use and others for night use, or may select signals suitable for both day and night use, to meet the requirements. Another change was the deletion of § 175.112 *Number of Pyrotechnic Signals* which repeated the requirement in § 175.110 that the number of devices specified in Table 175.130 be carried. Another change is made in § 175.140, *Prohibited Use*, by substituting the explanatory phrase "situation where assistance is needed because of immediate or potential danger to the persons on board" for the word "distress". This new phrase is consistent with internal Coast Guard directives which reserve the word "distress" for immediate danger situations.

Evaluation

This final rule has been reviewed under Department of Transportation Regulatory Policies and Procedures published February 26, 1979 (44 FR 11034). A final evaluation has been prepared and is available for inspection at the Marine Safety Council (G-CMC/TP24), Room 2418, Department of Transportation, Coast Guard Headquarters, Washington, D.C. 20593. The Coast Guard has determined that this final rule is not a significant regulation.

About two million boat owners will be affected and the minimum cost for compliance is about \$3.50 per boat per year. The minimum total annual cost to the boating public is about seven million dollars. No significant impact on the environment is expected.

In consideration of the foregoing, Title 33 of the Code of Federal Regulations, Part 175, is amended as follows:

PART 175 [Amended]

1. The authority citation for Part 175 is amended to read as follows:

Authority: Secs. 5 and 39 of the Federal Boat Safety Act of 1971, as amended, 46 U.S.C. 1454, 1488; 49 CFR 1.46(n)(1).

2. A new subpart C, Visual Distress Signals, is added to read as follows:

Subpart C—Visual Distress Signals

- Sec.
- 175.101 Applicability.
- 175.105 Definitions.
- 175.110 Visual distress signals required.
- 175.113 Launchers.
- 175.115 Exceptions.
- 175.120 Stowage.
- 175.125 Serviceability.
- 175.128 Marking.

- Sec.
- 175.130 Visual distress signals accepted.
- 175.135 Existing equipment.
- 175.140 Prohibited use.

Subpart C—Visual Distress Signals

§ 175.101 Applicability.

(a) This subpart applies, after 31 December 1980, to boats on the coastal waters of the United States and on the high seas beyond the territorial seas for boats owned in the United States.

§ 175.105 Definitions.

(a) "Visual distress signal" means a device that is approved by the Commandant under 46 CFR part 160 or certified by the manufacturer under 46 CFR parts 160 and 161.

(b) "Coastal Waters" means the Great Lakes and the territorial seas of the United States, and the bays and sounds which empty into these waters. Rivers, inside of a line drawn tangent to their headlands, are not included in "Coastal Waters" unless the distance across the river is over 2 miles. All portions of a river from the mouth to the point at which the river first narrows to 2 miles are included in "Coastal Waters."

§ 175.110 Visual distress signals required.

(a) No person may use a boat 16 feet or more in length or any boat carrying six or less passengers unless visual distress signals selected from the list in § 175.130 or the alternatives in § 175.135, in the number required, are on board. Devices suitable for day use and devices suitable for night use, or devices suitable for both day and night use, must be carried.

(b) Between sunset and sunrise, no person may use a boat less than 16 feet in length unless visual distress signals suitable for night use, selected from the list in § 175.130 or § 175.135, in the number required, are on board.

§ 175.113 Launchers.

(a) When a visual distress signal carried to meet the requirements of § 175.110 requires a launcher to activate, then a launcher approved under 46 CFR 160.028 must also be carried.

§ 175.115 Exceptions.

The following persons need not comply with § 175.110; however, each must carry on board visual distress signals suitable for night use, selected from the list in § 175.130 or § 175.135, in the number required, between sunset and sunrise:

- (a) A person competing in any organized marine parade, regatta, race, or similar event;
- (b) A person using a manually propelled boat; or
- (c) A person using a sailboat of completely open construction, not equipped with propulsion machinery, under 26' in length.

§ 175.120 Stowage.

(a) No person may use a boat unless the visual distress signals required by § 175.110 are readily accessible.

§ 175.125 Serviceability.

(a) No person may use a boat unless each signal required by § 175.110 is in serviceable condition and the service life of the signal, if indicated by a date marked on the signal, has not expired.

§ 175.128 Marking.

(a) No person may use a boat unless each signal required by § 175.110 is legibly marked with the approval number or certification statement as specified in 46 CFR parts 160 and 161.

§ 175.130 Visual distress signals accepted.

(a) Any of following signals, when carried in the number required, can be used to meet the requirements of § 175.110.

Table 175.130

Device description	Accepted for use	Number required to be carried
Number marked on device:		
160.022..... Floating Orange Smoke Distress Signals	Days only	3
160.024..... Pistol-Projected Parachute Red Flare Distress Signals	Day and night ¹	3
160.036..... Hand-Held Rocket-Propelled Parachute Red Flare Distress Signals	Day and night	3
160.037..... Hand-Held Orange Smoke Distress Signals.....	Day only	3
160.057..... Floating Orange Smoke Distress Signals	Day only	3
160.066..... Distress Signal for Boats, Red Aerial Pyrotechnic Flare.....	Day and night ²	3
160.072..... Distress Signal for Boats, Orange Flag.....	Day only	1
161.013..... Electric Distress Light for Boats.....	Night only	1

¹ These signals require use in combination with a suitable launching device approved under 46 CFR 160.028.
² These devices may be either self-contained or pistol launched, and either meteor or parachute assisted type. Some of these signals may require use in combination with a suitable launching device approved under 46 CFR 160.028.

§ 175.135 Existing equipment.

(a) The following types of non-approved pyrotechnic devices will be acceptable as meeting § 175.110 until 1 July 1982 so long as they remain in good and serviceable condition:

(1) Pyrotechnic aerial red flares, either hand-held or pistol projected, for "day and night" signal requirement;

(2) Pyrotechnic hand-held or floating orange smoke, for "day only" signal requirement;

(3) Signal pistols for use with cartridges accepted as meeting § 175.110.

§ 175.140 Prohibited use.

No person in a boat shall display a visual distress signal on waters to which this subpart applies under any circumstance except a situation where assistance is needed because of immediate or potential danger to the persons on board.

(Sec. 5, 85 Stat. 215; (46 U.S.C. 1454); 49 CFR 1.46(n)(1).

Dated: October 20, 1979.

J.B. Hayes,

Admiral, Coast Guard, Commandant.

[FR Doc. 79-38272 Filed 12-14-79; 8:45 am]

BILLING CODE 4910-14-M

33 CFR PARTS 175 and 183

[CGD 76-082]

Ventilation Safety Standards for Recreational Boats

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This rule establishes safety standards for ventilation systems that apply to boats having gasoline-powered engines for propulsion or electrical generation. Gasoline vapors collecting in boats have caused explosions and fires that have resulted in personal injuries, property damage and death. These safety standards, together with the present standards for fuel and electrical systems, will significantly reduce the probability of gasoline vapors collecting in the boat where they can be easily ignited, causing a fire or explosion.

EFFECTIVE DATE: This regulation is effective on August 1, 1980. However, a manufacturer may elect to comply with this subpart at any time after July 31, 1978.

FOR FURTHER INFORMATION CONTACT: Mr. Lars E. Granholm, Office of Boating Safety (G-BBT), U.S. Coast Guard,

Department of Transportation, Washington, D.C. 20590, (202/426-4027).

SUPPLEMENTARY INFORMATION: The Coast Guard published a Notice of Proposed Rulemaking in the *Federal Register* on July 27, 1978 (43 FR 32606). Prior to this date, an Advance Notice of Proposed Rulemaking was published in the *Federal Register* on March 15, 1977 (42 FR 15340). Each time interested persons were invited to participate in this proposed rulemaking by submitting relevant comments. All of the comments received were carefully considered and some changes have been made to the regulation as a result of the comments. The National Boating Safety Advisory Council has been consulted and its opinions and advice have been considered in the formulation of this amendment. The transcript of the proceedings of the meetings of the National Boating Safety Advisory Council at which time this amendment was discussed is available for examination in Room 4224, U.S. Coast Guard Headquarters, Trans Point Building, 2100 Second Street, S.W., Washington, D.C. The minutes of the meeting are available from the Executive Director, National Boating Safety Advisory Council, c/o Commandant (G-BA/TP42), U.S. Coast Guard, Washington, D.C. 20590.

Drafting Information

The principal persons involved in drafting this rule are: Mr. Lars E. Granholm, Project Manager, Office of Boating Safety and Ms. Mary Ann McCabe, Project Attorney, Office of the Chief Counsel.

Discussion of Comments

In the advance notice, the Coast Guard raised the question whether interlocks which would prevent the engine ignition system from being energized before the power ventilation system is energized should be required. The proposed rule did not require interlocks; however, the Coast Guard asked for further comments on whether or not interlocks should be required. Several commenters continued to object to interlocks because they could cause confusion when a boat has to be started quickly in an emergency. Some manufacturers submitted sales literature indicating that interlocks are available in the market. Since there may be problems associated with interlocks and consonant with Coast Guard policy to impose the minimum requirements necessary to achieve an adequate level of safety, no interlocks are required by this rule for propulsion engines or auxiliary generators.

Another commenter expressed concern about a statement in the preamble which indicated that "the Coast Guard believes that the proposed ventilation would insure an airflow in compartments that will reduce vapor concentration sufficiently to prevent an explosion." To clarify this statement, the Coast Guard wants to point out that the ventilation is intended to remove gasoline vapors such as boil-off from the carburetor and not vapors resulting from a leak of gasoline. The research reports cited in the Advance Notice of Proposed Rulemaking indicated that neither powered nor natural ventilation systems can ensure absolute removal of gasoline fumes if liquid gasoline is present in the bilge. In case of a leak the vapor concentration could reach the explosive level but the risk of leakage has been greatly reduced by the previously issued Coast Guard regulations for fuel systems on boats.

Other comments received on the proposed rule and the changes made are grouped according to the section to which they relate and are discussed below.

Section 186.610—Powered ventilation system. One commenter asked if the intent of the wording in paragraph (a) regarding a "compartment" is intended to apply to outboard engines. Although outboard powerheads are installed within their motor covers, these covers are not intended to be considered compartments and do not require power blowers. These engines are in the open atmosphere as installed on the boat and the risk of any gasoline vapors collecting in the boat is minimal. To clarify this the words "in a boat" are added to the paragraph to modify "compartment". For that reason, the words "in a boat" are also added to §§ 183.620(a) and 183.630(a).

Some commenters pointed out that paragraph (b) could be read to require each blower in the system to have sufficient capacity to exhaust the entire compartment though paragraph (e) states that more than one blower may be used. This was not the Coast Guard's intent. Several blowers may be used and their combined airflow capacity is listed in the table. Paragraph (b) is modified to clarify this by the addition of the words "or combination of blowers".

Several commenters requested that the Coast Guard specify which test in the Air Moving and Conditioning Association (AMCA) Standard is required by paragraph (b), because that standard contains several tests. The comment is accepted. The applicable test is described in the AMCA Standard in Figure 12. This reference is added to § 183.610(b).

One commenter suggested that the rule regarding the label which is required in paragraph (f) be modified to specify that a label be located by each ignition switch whether it is for propulsion engines or auxiliary generators. This comment is accepted because boats which have dual control stations or auxiliary generators have more than one ignition switch. Section 183.610(f)(1) is modified accordingly. The same commenter suggested that the word "warning" be used instead of "caution" in paragraph (f)(3). This comment is accepted. The signal word "warning" is more appropriate considering the degree of danger involved and is therefore included in the requirement.

One commenter suggested that the blower rating specified in paragraph (b) should be based on the engine size because the potential amount of vapor given off will be directly related to the engine size. This comment is not accepted. The blower capacity and the requirement to run the blower for 4 minutes is specified based on the volume of the compartment that must be ventilated. This assures sufficient dilution of gasoline vapors to reduce the chance of an explosion by providing adequate air change in the compartment.

The manufacturer of Jet Ski, which is a type of small craft sometimes referred to as thrillcraft, pointed out the difficulties in complying with the requirement for powered ventilation because of the small size of the engine compartment.

The Coast Guard acknowledges this problem; however, this type of craft is quite different from conventional boats and would best be handled by an exemption from the regulations. Section 9 of the Federal Boat Safety Act of 1971 allows the Coast Guard to grant individual exemptions, when requested, from the regulation of boating safety will not be adversely affected. Jet Ski has already been granted exemptions from the Safe Loading, Flotation, Fuel System, and Electrical System standards. The Coast Guard prefers to accommodate the needs of special type craft by means of exemptions rather than by a relaxation of the regulations generally applicable.

Section 183.620—*Natural ventilation system requirements*. Several commenters suggested changing the performance test in paragraph (b). They cited tests conducted by the American Boat and Yacht Council (ABYC) which showed that an airflow of 6 mph is too low to allow measurements of airflow in the ventilation ducts. A test during a 10 mph wind was suggested as being more

feasible. The comment is accepted and 10 mph is specified in the requirements.

The commenters further claimed that the airflow which the proposed rule specified be verified in the exhaust duct should be verified in either the supply or exhaust ducts, because in some cases the airflow entered the compartment through the exhaust openings. This comment is accepted. Dilution and dispersion of gasoline vapors takes place regardless of whether air enters through supply or exhaust openings. Paragraph (b)(2) is changed to require that air flow be verified in either the supply or exhaust openings during the test.

The commenters also suggested that the performance test should be required only as an alternative if forward-facing openings were not used on the boat because the tests showed that air did enter supply openings equipped with forward-facing openings. This comment is accepted with the provision that the supply openings are located on the exterior surface of the boat and the openings meet the size requirement in § 183.630(d).

One commenter suggested that the performance test in § 183.620(a), renumbered (b), should not be required if the compartment has openings to the atmosphere equal to or greater than 500% of those required by § 183.615(e), renumbered § 183.630(d). This comment is not accepted. No engineering data was given which would indicate to the Coast Guard how the 500% number was arrived at and why the performance requirement should be waived.

Several commenters opposed the requirement in § 183.620(a)(5), which requires ventilation if the permeability of the fuel systems exceeds a certain amount. The commenters claimed that if the fuel system meets all the requirements in the fuel system regulation, the components will not be permeable and thus this requirement would place an unwarranted economic burden on the manufacturer by requiring a needless test to be performed. Even if a test is not required, manufacturers feel they cannot certify compliance without the backing of a formal test. The Coast Guard agrees in part with the commenters. A metallic fuel tank which meets all the requirements specified in Subpart J—Fuel Systems is unlikely to have a permeability which would require ventilation. For that reason the rule is changed to except metallic fuel tanks from the requirement.

Some commenters further objected to the specification that the allowed permeability rate is based on the tank compartment volume. This would require additional labeling to specify

into what size compartment the tanks could be installed, which would impose an unreasonable burden on the manufacturer. The Coast Guard does not agree. If a tank is placed into such a small compartment that the permeability could create explosive vapors it is in the best interest of boating safety for a boat manufacturer to know into what size compartment the tank can be located without having to provide natural ventilation. However, the provision in § 183.620(a)(5) specifies that regardless of whether the fuel tank is in a compartment of less than one cubic foot net volume, ventilation must be provided if the permeability exceeds 1.2 grams in 24 hours.

The commenters also claimed that the permeability allowed could be excessive if the fuel tank is located in a very large compartment. The Coast Guard does not agree. The permeability based on compartment volume is sufficiently small, one-half of the lower explosive level in 24 hours, to ensure that the compartment surrounding the tank will be free of explosive gasoline vapors.

Section 183.630—*Natural ventilation system*. This section was numbered § 133.615 in the Notice of Proposed Rulemaking, but has been relocated and renumbered for easier understanding of the rule. Several commenters objected to paragraph (b) which specified a spacing between the supply and exhaust openings inside a compartment. The proposed spacing would prohibit the exhaust duct from being located beneath the engine. This comment is accepted and the paragraph is deleted. The previously cited research reports showed that thorough mixing takes place in a compartment a soon as an airflow is present regardless of the spacing between supply and exhaust openings, and for this reason the spacing between the supply and exhaust opening is not important. The commenters also suggested that the wording in paragraph (d) be clarified to indicate that the size of the supply openings or ducts must be determined separately in accordance with the formula given. This is accepted. Paragraph (d) is reworded to address supply and exhaust openings or ducts separately.

One commenter proposed that the sizes of openings in paragraph (d) be based on the beam of the boat instead of the volume of the compartment for the sake of simplifying the specification. This comment is not accepted. The ventilation requirement is based on purging vapors from a compartment within a certain time period. The compartment volume determines how

rapidly dilution takes place. A requirement based on the beam of the boat would not take into consideration any effect of different compartment volumes.

Subpart D, Section 175.201—*Ventilation*. This section is clarified by also referencing §§ 183.610 (b), (d), (e), and (f) in the requirement for how the boat must be equipped in regards to the ventilation system. The wording in the Notice of Proposed Rulemaking was ambiguous in that a boat operator could misunderstand the intent and replace some of the required components with inferior types. The new wording is intended to ensure that any replaced component is similar to the original one.

Other minor changes have been made in wording and arrangement in order to clarify and simplify the regulation. This rule has been reviewed under the Department of Transportation's "Regulatory Policies and Procedures" (44 FR 11034, February 26, 1979). A final evaluation has been prepared and has been included in the public docket. A copy of the final evaluation may be obtained from: Commandant (G-CMC/TP24), (CGD 76-082), U.S. Coast Guard, Washington, D.C. 20590.

Since Federal regulations issued under Section 5 of the Federal Boat Safety Act of 1971 preempt State boating regulations this change in the Federal ventilation regulations will require changes in State regulations in order to make the State regulations identical to their Federal counterparts.

In consideration of the foregoing, Parts 175 and 183 of Title 33 of the Code of Federal Regulations are amended as follows:

PART 175—EQUIPMENT REQUIREMENTS

1. By adding a new Subpart D to 33 CFR Part 175 to read as follows:

Subpart C—[Reserved]

Subpart D—Ventilation

§ 175.201 Ventilation.

No person may operate a boat built after July 31, 1980, that has a gasoline engine for electrical generation, mechanical power, or propulsion unless it is equipped with an operable ventilation system that meets the requirements of 33 CFR 183.610 (a), (b), (d), (e), and (f) and 183.620(a).

(46 U.S.C. 1454, 1455, 49 CFR 1.46(n)(1).)

PART 183—BOATS AND ASSOCIATED EQUIPMENT

2. By adding a new Subpart K to 33 CFR Part 183 to read as follows:

Subpart K—Ventilation

Sec.

- 183.601 Applicability.
- 183.605 Definitions.
- 183.607 Incorporation by reference.
- 183.610 Powered ventilation system.
- 183.620 Natural ventilation system.
- 183.630 Standards for natural ventilation.

Authority: 46 U.S.C. 1454, 1455, 49 CFR 1.46(n)(1).

Subpart K—Ventilation

§ 183.601 Applicability.

This subpart applies to all boats that—

(a) Have gasoline engines for electrical generation, mechanical power, or propulsion; and

(b) Are built after July 31, 1980, except that a manufacturer may elect to comply with this subpart at any time after July 31, 1978.

§ 183.605 Definitions.

As used in this subpart—

"AMCA" means Air Moving and Conditioning Association.

"ASTM" means American Society for Testing and Materials.

"Fuel" means gasoline.

"Open to the atmosphere" means a compartment that has at least 15 square inches of open area directly exposed to the atmosphere for each cubic foot of net compartment volume.

"UL" means Underwriters Laboratories, Inc.

§ 183.607 Incorporation by reference.

(a) The following standards are incorporated by reference. Copies may be obtained from the sources indicated. They are also available for inspection at Coast Guard Headquarters, Room 4220, 2100 Second Street, SW., Washington, D.C. 20590 and at the Office of the Federal Register Library, Room 8401, 1100 L Street, NW., Washington, D.C. 20408.

(1) AMCA Standard 210-74, Figure 12, dated 1974. Air Moving and Conditioning Association, 30 West University Drive, Arlington Heights, Illinois 60004.

(2) ASTM Standard D-471 dated April 1975. American Society for Testing and Materials, 1916 Race Street, Philadelphia, Pennsylvania 19103.

(3) UL Standard 1128, dated August 23, 1977. Underwriters Laboratories, Incorporated, 207 Ohio Street, Chicago, Illinois 60611.

(b) The Director of the Federal Register approved the incorporation by reference in paragraph (a)(2) on September 26, 1976 and the incorporations in paragraphs (a) (1) and (3) on March 24, 1978.

§ 183.610 Powered ventilation system

(a) Each compartment in a boat that has a permanently installed gasoline engine with a cranking motor must—

- (1) Be open to the atmosphere, or
- (2) Be ventilated by an exhaust blower system.

(b) Each exhaust blower or combination of blowers must be rated at an air flow capacity not less than that computed by the formulas given in Table 183.610, Column 2. Blower rating must be determined according to AMCA Standard 210-74, Figure 12, dated 1974, or UL Standard 1128 dated August 23, 1977.

Table 183.610

Col. 1 ¹	Col. 2 ²	Col. 3 ³
Below 34.....	Fr=50.....	Fo=20
34 to 100.....	Fr=1.5V.....	Fo=0.6V
Over 100.....	Fr=V/2 + 100.....	Fo=0.2V + 40

¹Net compartment volume of engine compartment and compartments open thereto (V) cubic feet.

²Rated blower capacity (Fr) cubic feet per minute.

³Blower system output (Fo) cubic feet per minute.

(c) Each exhaust blower system required by paragraph (a)(2) of this section must exhaust air from the boat at a rate which meets the requirements of Table 183.610, Column 3 when the engine is not operating.

(d) Each intake duct for an exhaust blower must be in the lower one-third of the compartment and above the normal level of accumulated bilge water.

(e) More than one exhaust blower may be used in combination to meet the requirements of this section.

(f) Each boat that is required to have an exhaust blower must have a label that—

- (1) Is located as close as practicable to each ignition switch;
- (2) Is in plain view of the operator; and
- (3) Has at least the following information:

WARNING—GASOLINE VAPORS CAN EXPLODE. BEFORE STARTING ENGINE OPERATE BLOWER FOR 4 MINUTES AND CHECK ENGINE COMPARTMENT BILGE FOR GASOLINE VAPORS.

§ 183.620 Natural ventilation system.

(a) Except for compartments open to the atmosphere, a natural ventilation system that meets the requirements of § 183.630 must be provided for each compartment in a boat that—

- (1) Contains a permanently installed gasoline engine;
- (2) Has openings between it and a compartment that requires ventilation, where the aggregate area of those openings exceeds 2 percent of the area between the compartments, except as provided in paragraph (c) of this section;

(3) Contains a permanently installed fuel tank and an electrical component that is not ignition protected in accordance with § 183.410(a);

(4) Contains a fuel tank that vents into that compartment; or

(5) Contains a non-metallic fuel tank with an aggregate permeability rate of more than the greater of 1.2 grams of fuel loss in 24 hours, or 1.2 grams of fuel loss in 24 hours per cubic foot of net compartment volume. Reference fuel "C" at 40°C plus or minus 2°C from ASTM standard D-471, dated April 1975, is to be used in determining the permeability rate.

(b) Each natural ventilation system must be constructed so that—

(1) Each supply opening required in § 183.630 is forward facing and located on the exterior surface of a boat; or

(2) Air will flow into or out of the supply or exhaust openings required in § 183.630 when the boat is in a wind flowing from bow to stern at a velocity of 10 miles per hour when the engine is not operating.

(c) An accommodation compartment above a compartment requiring ventilation that is separated from the compartment requiring ventilation by a deck or other structure is excepted from paragraph (a)(2) of this section.

§ 183.630 Standards for natural ventilation.

(a) For the purpose of § 183.620, "natural ventilation" means an airflow in a compartment in a boat achieved by having a—

(1) Supply opening or duct from the atmosphere or from a ventilated compartment or from a compartment that is open to the atmosphere; and

(2) An exhaust opening into another ventilated compartment or an exhaust duct to the atmosphere.

(b) Each exhaust opening or exhaust duct must originate in the lower third of the compartment.

(c) Each supply opening or supply duct and each exhaust opening or exhaust duct in a compartment must be above the normal accumulation of bilge water.

(d) Except as provided in paragraph (e) of this section, supply openings or supply ducts and exhaust openings or exhaust ducts must each have a minimum aggregate internal cross-sectional area calculated as follows:

$$A = 5 \ln (V/5);$$

where:

(1) A is the minimum aggregate internal cross-sectional area of the openings or ducts in square inches;

(2) V is the net compartment volume in cubic feet, including the net volume of other compartments connected by openings that

exceed 2 percent of the area between the compartments; and

(3) $\ln (V/5)$ is the natural logarithm of the quantity $(V/5)$.

(e) The minimum internal cross-sectional area of each supply opening or duct and exhaust opening or duct must exceed 3.0 square inches.

(f) The minimum internal cross-sectional area of terminal fittings for flexible ventilation ducts installed to meet the requirements of paragraph (d) of this section must not be less than 80 percent of the required internal cross-sectional area of the flexible ventilation duct.

Dated: December 10, 1979.

J. B. Hayes,

Admiral, U.S. Coast Guard, Commandant.

[FR Doc. 79-38640 Filed 12-14-79; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 223

Sale and Disposal of Timber

AGENCY: Forest Service, USDA.

ACTION: Final rule.

SUMMARY: This rule makes certain changes to the regulations in this part on the sale and disposal of timber. Several editorial changes have been made to correct minor problems. Substantive changes will allow for shortening the advertising period for emergency or administrative use sales and will eliminate the dollar limit on log sales not covered by export so that sales of logs under \$2,000 will no longer be exempt from the export and substitution restrictions. A third substantive change will remove authority to refuse awards to high bidders when such award would lessen opportunities for local labor.

EFFECTIVE DATE: December 17, 1979.

FOR FURTHER INFORMATION CONTACT:

George M. Leonard, Timber Management Staff, Forest Service, U.S. Department of Agriculture, P.O. Box 2417, Washington, D.C. 20013, (202) 447-4051.

SUPPLEMENTARY INFORMATION:

On October 6, 1978, the Secretary of Agriculture published a proposed rule (43 FR 46323) which would make editorial changes to regulations on sale and disposal of timber and would: (1) Allow for shortening the advertising period on administrative use sales, (2) eliminate the dollar limit on log sales not covered by export restrictions so that sales of logs under \$2,000 in value

will no longer be exempt from the export and substitution restrictions, and (3) remove authority to refuse awards to high bidders when such award would lessen opportunities for local labor. The final regulations are essentially the same as the proposed rule except for editorial changes.

Summary of Comments

There were a total of four respondents. The most general comment was that of opposition to removing authority for refusal to award sales, which might lessen the opportunities for local labor. The primary reason given for retaining this authority was that community stability and local labor are now and should continue to be important considerations in the management of National Forests.

The change in the regulation does not signal a change in Forest Service policy toward community stability and local labor. These two issues have been and will continue to be major factors in Forest Service decisions.

Community stability is being protected (1) by oral bid procedures which allow local mills to protect their interest through open competition, (2) by policies leading to a relatively evenflow of timber sales, and (3) by restricting awards only to parties who have the demonstrated financial ability to perform the contract.

Because community stability is already protected, the additional authority to refuse to award is redundant. Since it has been used only once and since it has served to confuse purchasers, we see no need to retain it. We have considered the option of rewriting and better defining the regulation. However, we were unable to develop guidelines which could be applied fairly without an outright allocation to "local" purchasers to the detriment of others. Such an allocation would be improper.

One respondent commented on the proposal to broaden the authority to shorten the advertising periods to meet emergencies. The respondent did not object to the proposal, but rather asked that the term emergency be better defined in the comments accompanying the regulation. We have done that in the following paragraph:

An emergency which would warrant shortening the advertising period is one which would significantly affect the results expected to be obtained from a timber sale, and which could be alleviated by starting operations 20 days earlier. Examples of such situations are: (1) Administrative use sales where the sale is preliminary to another activity which must begin within a short time, (2)