

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 25 and 160

[CGD 78-174]

RIN 2116-AA29

Hybrid PFDs; Establishment of Approval Requirements

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This final rule amends the structural and performance standards and procedures for approval of hybrid inflatable personal flotation devices (hybrid PFDs). Hybrid PFDs are designed to have a minimum amount of inherent flotation to ensure that a wearer will surface after falling in the water and to have a mechanism to inflate the PFD to provide additional buoyancy, and thereby greater clearance from the water, while a wearer awaits rescue. This rule also allows for approval of hybrid PFDs for youths and small children. The changes are intended to make hybrid PFDs more affordable and attractive to recreational boaters by lowering production costs and reducing required production testing. It is the Coast Guard's position that increased use of hybrid PFDs may save lives.

EFFECTIVE DATE: February 8, 1995.

ADDRESSES: Unless otherwise indicated, documents referred to in this preamble are available for inspection or copying at the office of the Executive Secretary, Marine Safety Council (G-LRA/3406), U.S. Coast Guard Headquarters, 2100 Second Street SW., room 3406, Washington, DC 20593-0001 between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 267-1477.

FOR FURTHER INFORMATION CONTACT: Mr. Samuel E. Wehr, Office of Marine Safety, Security, and Environmental Protection, (G-MVI-3/14), 2100 Second St. SW., Washington, DC 20593-0001, (202) 267-1444.

SUPPLEMENTARY INFORMATION:**Drafting Information**

The principal persons involved in drafting this document are Lieutenant Junior Grade Roger A. Smith and Mr. Samuel E. Wehr, Office of Marine Safety, Security, and Environmental Protection and Ms. Helen G. Boutrous, Project Counsel, Office of Chief Counsel.

Regulatory History

On January 18, 1994, the Coast Guard published a supplemental notice of

proposed rulemaking (SNPRM) entitled Hybrid PFDs; Establishment of Approval Requirements in the **Federal Register** (59 FR 2578). On February 16, 1994, the Coast Guard published a correction to the supplemental notice of proposed rulemaking in the **Federal Register** (59 FR 7668). The Coast Guard received three letters commenting on the SNPRM. No public hearing was requested, and none was held.

Background and Purpose

On August 22, 1985 the Coast Guard published an interim final rule (IFR) in the **Federal Register** (50 FR 33923) which established structural and performance standards and procedures for approval of hybrid inflatable personal flotation devices (PFD). That IFR allowed for the approval of several hybrid PFDs but not enough devices were made and sold to make a significant difference in the number of lives saved by this superior performing and more comfortable PFD. On January 18, 1994, the Coast Guard published a supplemental notice of proposed rulemaking (SNPRM) in the **Federal Register** (59 FR 2575) proposing changes to make hybrid PFDs more affordable and a procedure for the approval of hybrid PFDs for youths and small children. This final rule adopts those proposed changes. The provisions adopted by this rule will: Lower production costs by reducing the amount of repetitive testing required; reduce manufacturing costs for commercial devices by providing for single chamber construction; and increase buoyancy of hybrid PFDs. With these revisions, the Coast Guard intends to increase use of hybrid PFDs to potentially save more lives.

Discussion of Comments and Changes

The three letters commenting on the SNPRM were received from an interested individual, a PFD manufacturer, and Underwriters Laboratories, Inc. (UL). The individual that commented encouraged approval of hybrid PFDs for use by adults and children. The letter stated that a more comfortable and attractive flotation device will be worn more often than the current bulky, but effective, PFD Types and that this increase in use can only be beneficial to the boating public in creating a safer boating environment. The Coast Guard agrees with this comment. The other two comments raised many issues regarding the approval of hybrid PFDs. These issues are discussed below.

Manufacturer's Comments

1. The PFD manufacturer confirmed that sales of hybrid PFDs have been limited due to their relatively high cost and the requirement that they be worn to fulfill carriage requirements. The PFD manufacturer asserted that the value of hybrids will be further eroded by the anticipated approval of fully inflatable PFDs, particularly if inflatable products are not required to be worn to fulfill carriage requirements.

The Coast Guard agrees in part. The use of hybrid PFDs has been limited due to high prices as a result of high production costs, and the requirement that they be worn to fulfill carriage requirements. The intent of the revisions adopted by this final rule is to make hybrid PFDs a more viable option by reducing production costs and removing the requirement that hybrid PFDs be worn and marked "REQUIRED TO BE WORN" to satisfy carriage requirements. However, the Coast Guard does not agree that future approval of inflatable PFDs would necessarily erode the value and use of hybrid PFDs. Inflatable PFDs are not proposed to be approved for children in the near future and a totally inflatable device may cost much more than an equivalent type of hybrid PFD. Therefore, it is the Coast Guard's position that there will be a market for hybrid PFDs despite any possible future action to approve inflatable PFDs.

2. The PFD manufacturer asserted that the proposal to increase the inherent buoyancy minimum from 33 N to 40 N (7.5 lb to 9.0 lb), for an adult recreational hybrid device would be counter to the purpose for which these devices are purchased, which is to have PFDs that are less bulky than inherently buoyant products. However, the minimum inherent buoyancy for an adult recreational Type II hybrid PFD, as proposed in the SNPRM and adopted without change by this final rule, is 45 N (10 lb), rather than 40 N (9 lb) as stated by the comment. The lowest buoyancy of a non-hybrid, adult device is 70 N (15.5 lb).

This final rule allows for the carriage of Type I, II, and III hybrid PFDs without restriction. The increased buoyancies for adult and youth Type I PFDs and adult, youth, and small child Type II and III recreational hybrid PFDs are based on the minimum level of safety required when boaters are not alerted to special precautions to compensate for reduced inherent flotation. This issue is discussed further in paragraph number 4.

While the increase from 33 N to 45 N may not be desirable to some boaters the