

At the discretion of the presiding official, the time allocated to speakers for their presentation may be limited. Speakers and other attendees may also present information to the MSHA panel for inclusion in the rulemaking record.

The hearings will be conducted in an informal manner. The hearing panel may ask questions of speakers. Although formal rules of evidence or cross examination will not apply, the presiding official may exercise discretion to ensure the orderly progress of the hearing and may exclude irrelevant or unduly repetitious material and questions.

A verbatim transcript of the proceedings will be included in the rulemaking record. Copies of this transcript will be available to the public, and can be viewed at <http://www.msha.gov>.

MSHA will accept post-hearing written comments and other appropriate data for the record from any interested party, including those not presenting oral statements, prior to the close of the comment period on October 14, 2003.

Dated: August 21, 2003.

John R. Correll,

Deputy Assistant Secretary of Labor for Mine Safety and Health.

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DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Parts 1, 3 and 7

RIN 1024-AD07

Boating and Water Use Activities

AGENCY: National Park Service, Interior.

ACTION: Proposed rule.

SUMMARY: The National Park Service (NPS) is proposing to revise rules that regulate boating and water use activities in areas administered by the NPS. The proposed rule is intended to address changing visitor use patterns, changing technologies, compelling boating and water safety issues, and the evolution of related statutory authorities. The goal is to provide for greater consistency with United States Coast Guard (USCG) regulations and state laws and regulations, establish rules which will be more clearly understood by the visiting public, and which can be more effectively communicated and enforced by NPS personnel. Promulgation of the proposed rule will eliminate many requirements which are ineffective or out of date and apply new rules which

will provide flexibility in managing safety, resource preservation, and public use needs throughout the National Park System.

DATES: Comments must be received by December 24, 2003.

ADDRESSES: Comments should be sent to Kym Hall, Special Assistant, National Park Service, 1849 C Street NW, Room 3145, Washington, DC 20240. Email: WASO_Regulations@nps.gov. Fax: (202) 208-4684.

FOR FURTHER INFORMATION CONTACT: Kym Hall, (202) 208-4206.

SUPPLEMENTARY INFORMATION: The regulations contained in parts 1 through 7 of Title 36 of the Code of Federal Regulations (CFR) are the basic mechanisms used by the National Park Service (NPS) to protect the natural and cultural resources of the parks and to protect visitors and property within the parks. Parts 1 through 6 are general regulations applicable to all areas of the National Park System, with some exceptions, while part 7 contains special regulations, which have been found necessary for individual parks as supplements to the general regulations. Part 3 is specific to boating and water activities. The part 3 regulations were last revised in 1983. Although amendments and additions have been made from time to time since 1983, this was usually in response to new situations for which the existing regulations were not sufficient. For example, personal watercraft (PWC) were addressed in 36 CFR 3.24, April, 2000. Between 1983 and the present, the evolution of statutory authorities, changing visitor use patterns, new technologies, and continued boating and water safety issues coupled with evolving national trends to address such issues, all revealed that a comprehensive review of part 3 regulations was needed.

A work group of experienced employees from a wide variety of parks with water-based recreation and resources management responsibilities was established to work on part 3. The work group included an experienced State Boating Law Administrator, representing the National Association of State Boating Law Administrators (NASBLA). Park superintendents were asked to provide comments regarding boating and water safety issues apart from those addressed in the existing part 3, and comments were received from sixteen parks and from the staff at the NPS Washington Office. All comments were evaluated by the workgroup. Some of the comments were incorporated into the proposed rule. Other comments were more

appropriately addressed in section(s) of 36 CFR other than part 3. Some comments, specific to an individual park's circumstances, are more appropriately addressed as special regulations in part 7.

The NPS faced several situations where parks were unclear about enforcing USCG regulations and/or state laws and regulations. Specifically, an issue arose about the applicability of USCG regulations on a tour boat being operated on Crater Lake which is a non-navigable body of water. Lake Mead was also presented with a requirement to provide lifeguards on beaches because of Nevada state water use regulations. In addition to these specific questions, there has been some general confusion about the order of applicability or hierarchy of adopting USCG regulations and state laws and regulations in relation to NPS specific regulations contained in part 3. The required order of applicability, or hierarchy, of boating and water use regulations on park waters is as follows:

1. Regulations in Title 36, Code of Federal Regulations (CFR) will apply over any comparable law or regulation.

2. Laws and regulations of the USCG adopted pursuant to § 3.2 (a) will apply over any comparable state law or regulation.

3. Non-conflicting state boating safety laws and regulations that are not addressed by either 36 CFR or by the USCG are adopted pursuant to 3.2(b). The NPS is not adopting state water use laws or regulations unless specifically indicated in part 3.

The work group took several factors into consideration while discussing regulations to be changed, deleted, or written anew. Those factors include compliance with the NPS mission, safety issues, resource protection issues, clarity of existing regulations, reducing NPS regulations where possible and the uniformity of regulations with the USCG, the states, and among units of the National Park System to the extent possible. As a result of the review, the proposed changes to part 3 are expected to be more clearly understood by the public and be more effectively communicated and enforced by NPS employees. In addition the changes will enhance the NPS focus on safety and resource preservation issues, provide flexibility to address changing technologies, maintain minimum regulation necessary to address safety and resource preservation and provide for greater consistency in enforcement of NPS, USCG regulations and state boating laws and regulations.