

superintendent may require a permit to ensure communication of hazards, special conditions, specific policies, closures, equipment requirements or other restrictions (36 CFR 1.5 and 1.7). It also establishes factors that the superintendent should consider when determining requirements for the issuance of a permit (36 CFR 1.6).

#### *Section 3.4 For What Purposes May My Vessel Be Inspected?*

This section is changed to include the inspection of marine sanitation devices, and other pollution and noise abatement requirements within the authority of authorized persons, and to include noise level as one of those violations for which a vessel's use may be suspended.

The previous language in this section established the authority of authorized persons to stop and board vessels for the purposes of inspection and to terminate the voyage of vessels found in an unsafe condition as specified. This authority is in keeping with that granted to boarding officers of the USCG and many of the states.

The use of marine sanitation devices (MSDs) and discharge of sewage from vessels into park waters has come under increasing scrutiny as environmental awareness has grown. Park staff found that to simply adopt USCG regulations or state laws and regulations was ineffective. USCG regulations regarding the certification of MSDs give appropriate guidance regarding the devices themselves but do not address their use in waters of the National Park System. Park staff is increasingly required to inspect MSDs aboard vessels and to manage their use while on park waters.

Another issue of increasing importance faced by park management and enforcement staff has been the regulation of noise created by some power-driven vessels. NPS has made an attempt at such management for some time but was hampered by its own regulations. In this proposal NPS will enhance its ability to significantly improve this capability in proposed § 3.14.

It is the intent of this section to clearly authorize park staff to inspect vessels for compliance with marine sanitation device use, and with appropriate noise level requirements regardless of whether the vessel is underway. Further, the proposed language more clearly defines responsibilities to correct not only hazardous conditions but conditions involving pollution of park waters and excessive noise levels.

#### *Section 3.5 Do I Have To Report an Accident Involving a Vessel to the National Park Service?*

This section was formerly numbered 3.4 and is renumbered here to provide a more logical flow to the rules in Part 3 for the benefit of both the public and NPS staff.

The language in this section is changed to include only vessel accidents as opposed to the current term "incidents". Existing paragraph (a) is divided into proposed paragraphs (a), (b), and (c) in order to provide clarity. Proposed paragraph (a) identifies the vessel operator as the responsible reporting party. It also identifies a total property damage dollar value threshold for mandatory reporting of vessel accidents to the NPS. Proposed paragraph (b) identifies that otherwise the owner or an occupant of the vessel must assume this responsibility if the owner is incapable of doing so. The existing paragraph (b), which deals with "failure to report", is considered unnecessary and is deleted. A person who fails to report an accident would violate the reporting requirements of proposed paragraph (a). Proposed paragraph (c) identifies that the NPS reporting requirements may not fulfill the reporting requirements for the United States Coast Guard and the state.

It is the intent of the proposed changes in this rule to clarify for the public their responsibilities in vessel accident reporting. The changes in language to this section more clearly define who is required to report a vessel accident.

#### *Section 3.6 What Age Must I Be To Operate a Power Driven Vessel?*

This section is an addition to part 3. The intent of this section is to address a minimum age requirement for the operator of a power-driven vessel. Currently there is no NPS regulation establishing a minimum operator age. This has become a safety issue of growing concern as a result of changing technologies, increasingly crowded waterways, and a more complete understanding of the development of motor skills with age. Vessel operators can significantly impact the health, safety, and well being of other boaters and of park resources. This section establishes a minimum age of 16 to be the unsupervised operator of a power-driven vessel on park waters. It also allows children between the ages of 12 and 15 to operate power-driven vessels under the direct supervision of an adult.

There is a national trend to establish a minimum age for vessel operators in response to accident data. According to

the NASBLA, 43 states have established a minimum age for the operation of power-driven vessels. Those ages range from 10 to 18, with several states setting 16 as a minimum and many other states requiring an adult to be present to supervise a child operator. In the interest of conforming with state regulations when possible and to reduce the potential for confusion of the boating public, this section is applicable in parks located in states that have adopted no minimum age for the operator of a power-driven vessel. If a park is located within a state that has different age requirements for operators of power-driven vessels then that state's regulation is adopted in lieu of this section.

#### *Section 3.7 Who Must Wear a Personal Flotation Device (PFD)?*

This section is an addition to part 3. The intent of this section is to enhance visitor safety in the boating environment through identifying circumstances when children will be required to wear PFDs and to encourage superintendents to examine other activities that might appropriately require wearing of PFDs.

PFDs required by this section must be USCG approved Type I, II, or III PFDs, in serviceable condition and of the correct size for the person wearing it, in accordance with 33 CFR 175.11–175.23. Type V are eliminated because they are identified for specific functions and uncommon in recreational boating.

This section requires children 12 years of age or younger to wear a PFD when aboard a vessel underway, except while in an enclosed cabin or below deck, and authorizes the superintendent to determine other circumstances that require that PFDs be worn. This is not intended to preclude children from playing on inflatable devices, without wearing a PFD, when close to shore or the devices are not being used as a method of transportation.

According to NASBLA, 32 of 50 states, Puerto Rico and the District of Columbia now require children to wear PFDs. The majority of those states require children 12 years of age and younger to wear PFDs.

NASBLA supports an age requirement of 12 years of age and younger nationwide, and has referenced work completed by Ballestreri Consulting Inc. involving research surrounding the physiological, emotional and motor skill changes that occur around the age of 12. Ballestreri Consulting's work suggests that prior to that age, children have neither the motor skills nor the emotional skills to put on a PFD in an emergency situation. The American Academy of Pediatrics recommends that