DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS
WASHINGTON, D.C. 20314-1000

MAY 1 2 2003

REPLY TO
ATTENTION OF:

CECW-ON

MEMORANDUM FOR COMMANDERS, MAJOR SUBORDINATE COMMANDS AND DISTRICT COMMANDS, CHIEFS, CONSTRUCTION-OPERATIONS DIVISIONS

SUBJECT: Enforcement of New Federal Child Personal Floatation Device Requirement

1. On 23 December 2002, the United States Coast Guard issued a new regulation in 33 CFR 175, requiring children under the age of 13 to wear an appropriate personal flotation device (PFD) approved by the Coast Guard while recreational vessels are underway. This rule affects only those States that have not established a mandatory child PFD-wear requirement by statute or rule. For the remaining States, the rule recognizes and adopts the existing State regulation, even if the State's law is less stringent.

2. Applicable Coast Guard CFR References:

a. 33 CFR 175.15 *(Personal Flotation Devices Required)* states:

(c) No person may operate a recreational vessel under way with any child under 13 years old aboard unless each such child is either--
(1) Wearing an appropriate PFD approved by the Coast Guard; or
(2) Below decks or in an enclosed cabin.

b. 33 CFR 175.25 *(Adoption of States' Requirements for Children to Wear Personal Flotation Devices)* states:

On waters within the geographical boundaries of any State that has established by statute or rule a requirement under which each child must wear an appropriate PFD approved by the Coast Guard while aboard a recreational vessel, no person may use such a vessel in violation of that statute or rule.

3. The U.S. Army Corps of Engineers has the discretionary authority to enforce this rule in those States where mandatory PFD wear laws do not exist (Colorado, Hawaii, Indiana, Iowa, Minnesota, New Mexico, North Carolina, Virginia, Wisconsin, Wyoming). Title 36 CFR, Section 327 stipulates that all vessels on project waters must comply with Coast Guard boating safety regulations and specifically cites compliance with PFD regulations in Section 327.3(e).

All vessels, when on project waters, shall have safety equipment, including personal flotation devices, on board in compliance with U.S. Coast Guard boating safety requirement and in compliance with boating safety laws issued and enforced by the state in which the vessel is located. Owner or operators of vessels not in compliance with this section may be requested to remove the vessel immediately from project waters until such time as items of non-compliance are corrected.

4. USACE Policy.

a. As the nation's number one provider of outdoor recreation, it is imperative that the Corps minimize the potential for drownings at our projects by implementing this new requirement. During Calendar Year 2003, all districts and projects within those States identified in paragraph 3 above will implement an aggressive public awareness campaign to educate our visitors about the change in the Federal requirement. Oral and written warnings should be used as appropriate. Written citations should not be used during this first year of implementation unless such action is deemed critical for the safety of a child. Citations should be written under Section 327.3(e), Vessels.

b. Project offices should inform and coordinate this action with applicable State officials to gain full support from each State. Some States, such as North Carolina and Virginia, have adopted Title 33 in their State code and can enforce this new requirement. This rule does not authorize the Corps to enforce State or local laws at our water resource development projects.

5. This rule was created to address the problem of childhood drownings associated with boating activities. Since 1995, over 200 children under the age of 13 have died while boating. Most of these deaths could have been prevented if the child had been wearing a properly fitted PFD. Further information regarding the Coast Guard ruling can be found at http://www.uscgboating.org/regulations/fed_register_goto.aspx?id=USCG-2000-8589. POC for this action at HQUSACE is Mr. Stephen Austin at (202) 761-1940.

FOR THE COMMANDER:

Lawrence A. Lang

LAWRENCE A. LANG, Ph.D., P.E.
Acting Chief, Operations Division
Directorate of Civil Works

CECW-ON
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