

58 CSR 25

This legislative rule is filed for technical purposes

by the

Division of Natural Resources Law Enforcement Section

All changes are shown by strike-throughs for deleted
language and underlined for new language

August 1, 1995

TECHNICAL CHANGES TO

TITLE 58

DIVISION OF NATURAL RESOURCES
LEGISLATIVE RULES

"BUREAU OF COMMERCE" was added to the title of this rule. In addition, the following technical changes were made:

58 CSR 25 - Boating Regulations

1. On page 3, subsection 4.1.4 changed the reference to 47 CSR 25B to read 58 CSR 26.
2. On page 8, subsection 6.8 changed the reference from 47 CSR 25B to read 58 CSR 26.
3. On page 11, subsection 10.4 changed the mailing address for the Division of Natural Resources.
4. On page 11, subsection 11.1 changed the reference from 47 CSR 25B to read 58 CSR 26.
5. After the word "his" added "/her" throughout the rule.

FILED

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TITLE 58
LEGISLATIVE RULE
BUREAU OF COMMERCE
DIVISION OF NATURAL RESOURCES

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

SERIES 25
BOATING REGULATIONS

§58-25-1. General.

1.1. Scope. -- This legislative rule establishes regulations to govern the operation of motorboats and other vessels on the waters of this State.

1.2. Authority. -- W. Va. Code §§20-1-7(30), 20-7-13, and 20-7-22.

1.3. Filing Date. -- April 20, 1992

1.4. Effective Date. -- May 10, 1992

§58-25-2. Definitions.

2.1. "Coast Guard Approved" means equipment which has been approved by the Commandant of the United States Coast Guard after such equipment has been determined to be in compliance with Coast Guard specifications and regulations relating to the materials, construction, and performance of equipment. Such equipment must bear the approval stamp of the United States Coast Guard.

2.2. "Division" means the West Virginia Division of Natural Resources.

2.3. "Fixed System" means a Coast Guard approved fixed fire extinguisher system in a vessel's engine compartment.

2.4. "Government-Owned Reservoir" means natural or artificial impoundment, lake, pond, or reservoir that is partially or wholly within the territorial limits of West Virginia and is owned or administered by the federal government or by the State or any political subdivision thereof.

2.5. "Motorboat" means any vessel propelled by an electrical, steam, gas, diesel or other fuel propelled or driven motor, whether or not such motor is the principal source of propulsion, but does not include a vessel that has a valid marine document issued by the United States Bureau of Customs or any federal agency that is the successor thereto.

2.6. "Open Boat" means a vessel on which all engine compartments, fuel tank compartments, and other spaces to which

explosive or flammable gases and vapors may flow are open to the atmosphere and so arranged as to prevent the entrapment of such gases and vapors within the vessel.

2.7. "Open to the Atmosphere" means a compartment which has at least fifteen (15) square inches of open area directly exposed to the atmosphere for each cubic foot of net compartment volume.

2.8. "Operate" means to navigate or otherwise use a vessel.

2.9. "Person" includes the plural "persons" and means an individual, partnership, firm, corporation, association, or other legal entity.

2.10. "Personal Watercraft" or "PWC" means a small Class A vessel which uses an outboard motor or an inboard motor powering a water jet pump as its primary source of motive power and which is designed to be operated by a Person sitting, standing, or kneeling on, or being towed behind the vessel rather than the conventional manner of sitting or standing inside the vessel.

2.11. "Racing Shell" or "Rowing Scull" means a manually propelled vessel, recognized by a national or international racing association for use in competitive racing, in which all occupants except a coxswain row, scull, or paddle and which is designed and equipped solely for competitive racing.

2.12. "Vessel" means every description of watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation on the water.

2.13. "Visible" means visible on a dark night with a clear atmosphere.

2.14. "Waters of this State" means any public waters within the territorial limits of this State.

§58-25-3. Classification of Vessels.

3.1. Motorboats and other vessels shall be divided into four (4) classes as follows:

3.1.1. Class A includes vessels of less than sixteen (16) feet in length and all personal watercraft as defined in Section 2 of these regulations.

3.1.2. Class 1 includes vessels of sixteen (16) feet or over and less than twenty-six (26) feet in length.

3.1.3. Class 2 includes vessels of twenty-six (26) feet or over and less than forty (40) feet in length.

3.1.4. Class 3 includes vessels of forty (40) feet or over in length.

§58-25-4. Required Equipment.

4.1. Lights.

4.1.1. From sunset to sunrise and during times of low visibility, a vessel must carry and exhibit the lights prescribed by Section 4.1 of these regulations when the vessel is under way. During such times, no other lights which can be mistaken for those prescribed may be exhibited.

4.1.2. Every white light prescribed by Section 4.1 of these regulations must be of such character as to be visible at a distance of at least two (2) miles. Every colored light prescribed by Section 4.1 of these regulations must be of such character as to be visible at a distance of at least one (1) mile.

4.1.3. Except for personal watercraft and as provided in Section 4.1.4 of these regulations, motorboats of Class A must carry, ready at hand, a lantern or electric torch showing a white light which must be exhibited in sufficient time to avert a collision.

4.1.4. Except for personal watercraft, motorboats of Class A must be equipped with the lights required for motorboats of Class 1 under Section 4.1.5 of these regulations whenever operated on one of the bodies of water designated in 47 58 CSR 25B 26.

4.1.5. Motorboats of Class 1 must be equipped with the following lights:

4.1.5.a. A bright white light aft to show all around the horizon.

4.1.5.b. A combined lantern in the fore part of the vessel and lower than the white light aft, showing green to starboard and red to port and so fixed as to throw the lights ten (10) points on each side of the vessel (i.e., from directly ahead to two (2) points abaft the beam on either side).

4.1.6. Motorboats of Class 2 or Class 3 must be equipped with the following lights:

4.1.6.a. A bright white light in the fore part of the vessel as near the stem as practicable, so constructed as to show an unbroken light over an arc of the horizon of 20 points of the compass and so fixed as to throw the light 10 points on each side of the vessel (i.e., from directly ahead to 2 points abaft the beam on either side).

4.1.6.b. A bright white light aft to show all around the horizon and higher than the white light forward.

4.1.6.c. On the starboard side, a green light so constructed as to show an unbroken light over an arc of the horizon of 10 points of the compass and so fixed as to throw the light from directly ahead to 2 points abaft the beam on the starboard side. On the port side, a red light so constructed as to show an unbroken light over an arc of the horizon of 10 points of the compass and so fixed as to throw the light from directly ahead to 2 points abaft the beam on the port side. These side lights must be fitted with inboard screens of sufficient height to prevent the lights from being seen across the bow.

4.1.7. A vessel propelled by sail and machinery must exhibit the lights required for a motorboat of the same class propelled by machinery alone.

4.1.8. A vessel propelled by sail alone must carry, ready at hand, a lantern or electric torch showing a white light which must be exhibited in sufficient time to avert a collision.

4.1.9. When propelled by sail alone, a vessel must exhibit the white light aft as prescribed in Section 4.1.5.a of these regulations and either the combined lantern as prescribed in Section 4.1.5.b of these regulations or the colored side lights as prescribed in Section 4.1.6 of these regulations.

4.1.10. A vessel propelled manually must carry, ready at hand, a lantern or electric torch showing a white light which must be exhibited in sufficient time to avert a collision.

4.1.10.a. Racing shells and rowing sculls are exempt from the provisions of Section 4.1.10 of these regulations.

4.1.11. Any vessel may carry and exhibit the lights required by 33 U.S.C. §§1051-1094 (Regulations for Preventing Collisions at Sea) in lieu of the lights required by Section 4.1 of these regulations.

4.2. Personal Floatation Devices.

4.2.1. Except for personal watercraft, Class A vessels must carry a Type I, Type II, Type III, or Type IV personal floatation device for each person on board or being towed.

4.2.2. Motorboats and other vessels of Class 1, Class 2, or Class 3 must carry a Type I, Type II, or Type III personal floatation device for each person on board or being towed and at least one Type IV personal floatation device.

4.2.3. All personal floatation devices prescribed by Section

4.2 of these regulations must be Coast Guard Approved and must be maintained in a good and serviceable condition. Type I, II, and III personal floatation devices must be kept readily available for use at all times; Type IV personal floatation devices must be kept immediately available for use at all times.

4.2.4. Racing shells and rowing sculls are exempt from the provisions of Section 4.2.1 and 4.2.2 of these regulations.

4.2.5. Any person operating, riding as a passenger, or being towed behind a personal watercraft must wear a Type I, II, III, or IV floatation device approved by the United States Coast Guard.

4.3. Fire Extinguishers.

4.3.1. Motorboats with no fixed system.

4.3.1.a. Motorboats of Class A or Class 1 must carry at least one (1) Type B-I or Type B-II fire extinguishers unless exempted from this requirements under Section 4.3.1.d of these regulations.

4.3.1.b. Motorboats of Class 2 must carry either two (2) Type B-I fire extinguishers or one (1) Type B-II fire extinguisher.

4.3.1.c. Motorboats of Class 3 must carry either three (3) Type B-I fire extinguishers or one (1) Type B-I and one (1) Type B-II fire extinguishers.

4.3.1.d. Motorboats of Class A or Class 1 need not carry a fire extinguisher if they are a personal watercraft or the following conditions are met:

4.3.1.d.A. The construction of the motorboat is such that flammable or explosive vapors cannot be trapped within;

4.3.1.d.B. The motorboat has no enclosed engine compartments; and

4.3.1.d.C. The motorboat has no permanently-installed fuel tanks.

4.3.2. Motorboats with a fixed system.

4.3.2.a. Motorboats of Class 2 must carry at least one (1) Type B-I fire extinguisher.

4.3.2.b. Motorboats of Class 3 must carry either two (2) Type B-I fire extinguishers or one (1) Type B-II fire extinguisher.

4.3.3. All fire extinguishers prescribed by Section 4.3 of these regulations must be Coast Guard approved, must be fully

charged, must be maintained in a good and serviceable condition, and must be readily available for use at all times.

4.4. Signalling Devices.

4.4.1. Except for personal watercraft, all vessels of Class A or Class 1 must carry a mouth whistle or a power-operated horn or whistle capable of producing a blast at least two (2) seconds in duration which is audible for a distance of at least one-half (1/2) mile.

4.4.2. All vessels of Class 2 must carry a hand-operated or power-operated horn capable of producing a blast of at least two (2) seconds in duration which is audible for a distance of at least one (1) mile.

4.4.3. All vessels of Class 3 must carry a power-operated horn or whistle capable of producing a blast of at least two (2) seconds in duration which is audible for a distance of at least one (1) mile.

4.4.4. All vessels of Class 2 or Class 3 must carry a bell which, when struck, produces a clear tone.

4.5. Ventilation Systems.

4.5.1. All motorboats, except open boats, which use gasoline or any other fuel which has a flash point of 110° Fahrenheit or less must have at least two (2) ventilator ducts, fitted with cowls or their equivalent, for the efficient removal of explosive or flammable gases from the bilges of every engine and fuel tank compartment.

4.5.1.a. At least one (1) exhaust duct must be installed that extends from the lower portion of the bilge to the open atmosphere.

4.5.1.b. At least one (1) intake duct must be installed that extends from the open atmosphere to a point that is either at least midway to the bilge or at least below the level of the carburetor air intake.

4.5.1.c. Cowls must be located and trimmed for maximum effectiveness in preventing displaced fumes from being recirculated.

4.5.2. The ventilation requirements of Section 4.5.1 of these regulations do not apply to a fuel tank compartment which:

4.5.2.a. Contains only permanently-installed fuel tanks;

4.5.2.b. Vents to the open atmosphere; and

4.5.2.c. Contains only electrical components which are ignition-protection in accordance with 33 C.F.R. §183.410(a).

4.5.3. All vessels built after July 1, 1980, except open boats, which have a gasoline engine for electrical generation, mechanical power, or propulsion must have a ventilation system that meets the requirements of Subpart K of 33 C.F.R. Part 183.

4.6. Flame Arrestors.

4.6.1. The carburetors of motorboats of Class A, Class 1, Class 2, or Class 3 which have a gasoline engine, except outboard motors, must be fitted with a Coast Guard approved device for arresting backfire flames.

§58-25-5. Right-of-Way.

5.1. When two vessels are approaching each other head on or nearly so as to involve a risk of collision with each other, each vessel must bear to starboard and pass the other vessel on its port side.

5.2. When vessels approach each other obliquely or at right angles, the vessel approaching from the starboard has the right-of-way.

5.3. One vessel may overtake another on either side but must grant the right-of-way to the overtaken vessel.

5.3.1. Before passing another vessel to starboard, one (1) blast of one (1) second in duration must be sounded by whistle or horn.

5.3.2. Before passing another vessel to port, two (2) blasts of one (1) second in duration must be sounded by whistle or horn.

5.4. When a sailboat and motorboat are operating as to involve a risk of collision with each other, the motorboat must yield the right-of-way to the sailboat in all cases.

5.5. All vessels must be operated in conformance with the inland navigation rules of the United States Coast Guard (Commandant Instruction M16672.2A).

§58-25-6. Prohibited Operations.

6.1. No person under the age of fifteen (15) shall operated or be permitted to operate a motorboat or personal watercraft upon the waters of the State, except persons twelve (12) to fifteen (15) years of age may operate a motorboat or personal watercraft if a person over eighteen (18) years of age is aboard the motorboat or personal watercraft, however, persons twelve (12) to fifteen (15)

years of age may operate a motorboat up to a maximum of ten (10) horsepower without having an adult on board.

6.1.1. No person who owns a motorboat or personal watercraft or who has charge over or control of a motorboat or personal watercraft shall authorize or knowingly permit a motorboat or personal watercraft to be operated in violation of these regulations.

6.2. No person may operate or give permission for the operation of a vessel which is not equipped as required under the provisions of Section 4 of these regulations.

6.3. No person may operate a vessel in a reckless or negligent manner so as to endanger the life, limb, or property of any person.

6.4. No person may operate a vessel while intoxicated or while under the influence of any narcotic drug, barbiturate, or marijuana.

6.5. No person may operate or knowingly permit another person to operate a vessel if such person, by reason of physical or mental disability, is incapable of operating such vessel in a safe manner under all the prevailing circumstances.

6.6. No person may operate or knowingly permit another person to operate a vessel at a rate of speed greater than will permit such person, in the exercise of reasonable care, to bring the vessel to a stop within the assured clear distance ahead. This provision does not apply to the operator of a vessel competing in a regatta which is sanctioned under the provisions of W. Va. Code §20-7-20 who is attempting to attain high speeds on a marked race course.

6.7. No person may take a reckless approach to or passage by a dock or ramp, a moored or anchored vessel, or a marked swimming area.

6.8. No person may operate a motorboat at a speed greater than the speed limits established on the waters of a government-owned reservoir under ~~47~~ 58 CSR ~~25B~~ 26.

6.9. No person shall operate a personal watercraft at any time between the hours of one-half (1/2) hour after sunset to one-half (1/2) hour before sunrise.

6.10. No person shall operate a personal watercraft unless the lanyard cut off switch, if so equipped by the manufacturer, is attached to the operator's person, clothing, or personal floatation device.

6.11. All persons shall operate a personal watercraft in a

reasonable and prudent manner at all times. Maneuvers which unreasonably or unnecessarily endanger life, limb, or property shall constitute reckless operation of the vessel.

6.12. The provisions of this Section do not apply to participants in an approved and permitted regatta, race, marine parade, tournament, or exhibition.

§58-25-7. Restricted Areas.

7.1. No person may anchor a vessel in a position that obstructs a passageway ordinarily used by other vessels.

7.2. No person may anchor or tie a vessel to any type of navigation aid or buoy.

7.3. No person may operate a vessel within twenty (20) feet of a person engaged in fishing without first obtaining permission from that fisherman.

7.4. No person may operate a vessel within twenty (20) feet of the exterior boundary of a water area which is clearly marked by buoys as a swimming area.

7.4.1. Swimming areas must be marked with yellow and red colored buoys by the owners of such areas.

7.5. No person may operate a motorboat at a speed greater than idling speed on established and marked no-wake zones on a government-owned reservoir.

§58-25-8. Overloading and Overpowering.

8.1. No vessel may be loaded with passengers or cargo beyond its safe cargo carrying capacity.

8.1.1. The maximum persons capacity marked on a vessel's maximum capacities plate must not be exceeded.

8.1.2. The maximum weight capacity marked on a vessel's maximum capacities plate must not be exceeded.

8.1.3. If a vessel does not have a U.S. Coast Guard Maximum Capacities plate provided by the manufacturer, the owner must demonstrate that his/her vessel conforms to the safe loading requirements of Subpart C of 33 C.F.R. Part 183.

8.2. No vessel may be operated beyond its safe powering capacity.

8.2.1. The maximum horsepower capacity marked on a vessel's maximum capacities plate must not be exceeded.

8.2.2. If a vessel does not have a U.S. Coast Guard Maximum Capacities plate provided by the manufacturer, the owner must demonstrate that his/her vessel conforms to the safe powering requirement of Subpart D of 33 C.F.R. Part 183.

§58-25-9. Water Skis and Surfboards.

9.1. No person may operate or manipulate any vessel, tow rope, or other device by which the direction or location of water skis, surfboard, or similar device may be affected or controlled in such a way as to cause other water skis, surfboard, or similar device, or any person thereon, to collide with or strike against any object or person.

9.2. No person may manipulate any water skis, surfboard, or similar device in a reckless or negligent manner so as to endanger the life, limb, or property of another person.

9.3. No person may manipulate any water skis, surfboard, or similar device while intoxicated or while under the influence of any narcotic drug, barbiturate, or marijuana.

9.4. No person may operate a vessel towing a person on water skis, surfboard, or similar device, nor may any person engage in water skiing, surfboarding, or similar activity at any time between the hours from one (1) hour after sunset to one (1) hour before sunrise.

9.5. No person may operate a vessel towing a person on water skis, surfboard, or similar device unless:

9.5.1. A person other than the operator is on board such vessel in a position to observe the progress of the person being towed; or

9.5.2. Such vessel is equipped with a wide-angle rear view mirror mounted in a manner that permits the operator to observe the progress of the person being towed.

9.6. The provisions of Sections 9.4 and 9.5 of these regulations do not apply to a performer in a professional exhibition or to a person engaged in an activity authorized under the provisions of W. Va. code §20-7-20.

9.7. No person may operate a vessel on a government-owned reservoir while towing a person on water skis, surfboard, or similar device nor may any person engage in water skiing surfboarding, or similar activity on such reservoir except in the unlimited speed zone.

9.8. Except as provided in Section 9.8.1 of these regulations, a person towed by a vessel must wear a Coast Guard approved Type I,

Type II, or Type III personal floatation device.

9.8.1. A person engaged in barefoot waterskiing may elect, at his/her own risk, to wear a non-Coast Guard approved barefoot wetsuit designed specifically for such activity.

§58-25-10. Accident Reports.

10.1. It is the Duty of the operator of a vessel involved in a collision, accident, or other casualty -- so far as he can do so without serious damage to his/her own vessel, crew, and passengers -- to render to other persons affected by the collision, accident, or other casualty such assistance as may be practicable and necessary in order to save them from or minimize any danger caused by the incident.

10.2. It is the duty of the operator of a vessel involved in a collision, accident, or other casualty to give his/her name, address, and identification of his/her vessel in writing to any person who was injured during the incident and to the owner of any property damaged by the incident.

10.3. The operator of any vessel involved in a collision, accident, or other casualty which results in death or injury to a person or damage to property in excess of one hundred dollars (\$100) must file a full description of the incident with the Division by completion, in triplicate, the Division of Natural Resources Form MB-3.

10.3.1. An accident report in a case involving a loss of life must be submitted to the Division within forty-eight (48) hours of the incident.

10.3.2. An accident report in a case involving an injury or property damage must be submitted to the Division within five (5) days of the incident.

10.4. An accident report must be submitted in person or by mail to the Division of Natural Resources, Motorboat Safety Section, ~~1800 1900 Washington Street~~ Kanawha Boulevard, East, Charleston, West Virginia 25305.

§58-25-11. Boating on Government-Owned Reservoirs.

11.1. Special regulations to be observed in the operation of motorboats and other vessels upon, over, or through the waters of a particular government-owned reservoir are found in ~~47 58~~ CSR 25B 26.

11.2. No motorboat or other vessel may be placed upon or operated upon a government-owned reservoir for a fee or profit,

either as a direct charge to a second party or as an incident to other services provided by the second party, except as specifically authorized by lease, license, or concession contract with the government agency which manages the reservoir.

11.3. No motorboat or other vessel containing a sink, toilet, or sanitary system may be launched and operated upon a government owned reservoir unless such sink, toilet, or sanitary system has been removed, sealed, or made to drain into a tank which can be carried or pumped ashore into a receptacle for disposal away from the lands and waters of the reservoir.

11.4. A motor boat or other vessel, when not in actual use at a government-owned reservoir, must be:

11.4.1. Removed from the reservoir;

11.4.2. Securely moored at an authorized dock or boathouse where supervision by the owner or his/her representative is provided on a twenty-four (24) hour basis; or

11.4.3. Placed in the care of a marina concessionaire, state or local managing agency, or other party authorized to care for floating equipment on a twenty-four (24) hour basis.

11.5. No motorboat or other vessel may be placed upon a government-owned reservoir for use as a dwelling of either permanent or temporary nature.

11.6. A barge, floating facility, motorboat, or other vessel may be moored only in locations designated by the government agency which manages the reservoir. All floating or stationary mooring facilities must be constructed in accordance with plans approved by the managing government agency.

11.7. Abandonment of personal property on the land or waters of a government-owned reservoir is prohibited.

11.8. Gasoline, oil, and other flammable or combustible liquids may not be stored upon or about a government-owned reservoir or the shores thereof without written permission from the managing government agency.

11.9. Private notices and advertisements may not be posted, distributed, or displayed at a government-owned reservoir except as the managing government agency may deem necessary for the convenience and guidance of the public using the area for recreational purposes.

11.10. No person may engage in or solicit any business at a government-owned reservoir unless such activities are permitted under the terms of a lease, license, or concession contract with

the government agency which manages that reservoir.

§58-25-12. Special Requirements for Motorboats Which Carry Passengers for Hire.

12.1. Motorboats which carry passengers for hire must be provisioned with a Type I personal floatation device for each person carried. Such motorboats must also be provisioned with an additional number of Type I personal floatation devices suitable for children equal to at least ten percent (10%) of the maximum number of persons carried, unless the service is such that children are never carried.

12.1.1. All personal floatation devices prescribed by Section 12.1 of these regulations must be Coast Guard approved, must be maintained in a good and serviceable condition, and must be readily available for use at all times.

12.2. Motorboats while carrying passengers for hire must be operated and navigated by a person duly licensed by the United States Coast Guard. This provision does not apply to outfitters and guides licensed under W. Va. Code §§20-2-23(a) or 20-2-26.

12.3. Motorboats carrying more than six (6) passengers must be inspected and certified by the United States Coast Guard.