

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #3

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137 JUL 28 AM 9 02
SECRET

**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE
AND
FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**

AGENCY: Department of Natural Resources TITLE NUMBER: 47

CITE AUTHORITY W. Va. Code §§20-1-7 and 20-7-22

AMENDMENT TO AN EXISTING RULE: YES NO

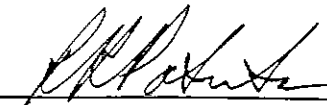
IF YES, SERIES NUMBER OF RULE BEING AMENDED: 25

TITLE OF RULE BEING AMENDED: Boating Regulations

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE FOR THEIR REVIEW.



FISCAL NOTE FOR PROPOSED RULES

Rule Title: Boating Regulations

Type of Rule: Legislative Interpretive Procedural

Agency: West Virginia Department of Natural Resources

Address: 1800 Washington Street East, Charleston, West Virginia 25305

| 1. Effect of Proposed Rule (Estimated Total Cost) | Increase \$ | ANNUAL | | FISCAL YEAR | |
|--|----------------|----------------|---------------|-------------|------------------|
| | | Decrease \$ | Current \$ | Next \$ | Thereafter \$ |
| Personal Services | | | | | |
| Current Expense | | | | | |
| Repairs and Alterations | | | | | NO CHANGE |
| Equipment | | | | | |
| Other | | | | | |

2. Explanation of Above Estimates:

The proposed rule will have no impact upon the Department's existing administration of West Virginia Boating Regulations.

3. Objectives of These Rules:

The proposed rules will add a new barefoot waterskiing clause to the West Virginia Boating Regulations.

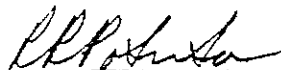
4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government: No Impact

B. Economic Impact on Political Subdivisions; Specific Industries; Specific Groups of Citizens: No Impact

C. Economic Impact on Citizens/Public at Large: No Impact

Date: June 10, 1987



Ronald R. Potesta
Director

DATE: July 28, 1987

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: West Virginia Department of Natural Resources

LEGISLATIVE RULE TITLE: Boating Regulations

1. Authorizing statute(s) citation:

West Virginia Code Chapter 20, Article 1, Section 7
West Virginia Code Chapter 20, Article 7, Section 22

2. a. Date filed in State Register with Notice of Hearing:

June 10, 1987

b. What other notice, including advertising, did you give of the public hearing?

An official Department News Release was sent to all West Virginia newspapers and radio and television stations.

c. Date(s) of hearing(s): July 20, 1987

d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.

Attached X No comments received _____

Comments received, amendments, and reasons for amendments appear in the Response to Comments filed with the agency-approved proposed Legislative Rule.

e. Date you filed in State Register the agency-approved proposed Legislative Rule following public hearing:

July 28, 1987

f. Name and phone number of agency person to contact for additional information:

Mr. Dennis H. Treacy
Director's Office of Regulatory Affairs
348-2761

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

NOT APPLICABLE

a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

b. Date of hearing: _____

c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

d. Attach findings and determinations and reasons:

PREAMBLE FOR PROPOSED AMENDMENTS TO LEGISLATIVE RULES
WEST VIRGINIA BOATING REGULATIONS

REGULATIONS: Department of Natural Resources, Series 25, Boating Regulations

AUTHORITY: West Virginia Code, Chapter 20, Article 1, Section 7 and Chapter 20, Article 7, Section 22

ACTION: Agency-Approved Rules

TOPIC: The regulation of the operation of motorboats and other vessels on the waters on the State.

SUMMARY: The Department is proposing to amend its boating regulations in order to allow barefoot waterskiers to use, at their own risk, non-Coast Guard approved barefoot wetsuits in lieu of more bulky life vests. Today's proposal would add a new subsection (Section 19.6) to the current regulations which is similar to barefoot waterskiing provisions that have proven successful in Pennsylvania and Ohio. Today's filing also includes typographical revisions in Sections 2 and 10 that will make the current regulations more concise and easier to understand.

RESPONSE TO COMMENTS: A public hearing was held on July 20, 1987 in Charleston and comments were received until the close of business on July 22, 1987. The hearing was attended by and comments were received from one interested party. This individual, director of a waterskiing club in Parkersburg, expressed strong support on behalf of his club for the proposed rule amendments. In addition, this individual noted that Section 20-7-17 of the West Virginia Code requires the muffling of the noise of the exhaust of all motorboats but such requirements do not appear in these regulations. The commenter stated that he and others in his club were aware of unmuffled motorboats operating on the Ohio River and asked whether the Department can enforce the provisions of Section 20-7-17 given no such restriction in these regulations. In response, the Department clearly holds the power to enforce the statutory provisions related to motorboat exhaust muffling under Section 20-7-9 of the Code regardless of whether or not such provisions appear in these regulations. Individuals observing unmuffled motorboats should report their observations, along with the vessel identification numbers, to local conservation officers for investigation.

*10 TITLE 47
LEGISLATIVE RULES
DEPARTMENT OF NATURAL RESOURCES

SERIES 25
BOATING REGULATIONS

*09 §47-25-1. General.

1.1. Scope and Purpose. -- These are legislative rules and regulations to be observed in the operation or navigation of motorboats upon, over, or through the waters of this State. The purpose of these legislative rules is to establish 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 and §20-7-22.

1.3. Filing Date. --

1.4. Effective Date. --

*09 §47-25-2. Definitions.

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

2.2. "Motorboat" -- Any vessel propelled by an electrical, steam, gas, diesel or other fuel propelled or drive motor, whether or not such motor is the principal source of propulsion, but shall not include a vessel which has a valid marine document issued by the Bureau of Customs of the United States government or any federal agency successor thereto.

2.3. "Owner" -- A person, other than a lien holder, having the property in or title to a motorboat. The term includes a person entitled to the use or possession of a motorboat subject to an interest in another person, reserved or created by agreement and securing payment or performance of an obligation, but the term excludes a lessee under a lease not intended as security.

2.4. "Waters of this State" -- Any public waters within the territorial limits of this State to include that portion of the Ohio River which flows along the boundary of this State.

2.5. "Person" -- An individual, partnership, firm, corporation, association or other entity.

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DEPARTMENT OF NATURAL RESOURCES

~~2.6. "Operate" means to navigate or otherwise use a motorboat or vessel.~~

~~2.7. "Department" means the Department of Natural Resources.~~

~~2.8. "Director" means the director of the Department of Natural Resources.~~

2.1 "Coast Guard Approved" means equipment which has been approved by the Commandant of the United States Coast Guard after it has been determined to be in compliance with the various Coast Guard specifications and regulations relating to the construction and performance of such equipment. Names or manufacturers of approved equipment and approval numbers assigned to them for various types of equipment are contained in Coast Guard Booklet CG-190, Equipment Lists, which is published approximately once each year.

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

2.3. "Director" means the director of the West Virginia Department of Natural Resources.

2.4. "Motorboat" means any vessel propelled by an electrical, steam, gasoline, diesel, or other fuel-propelled or drive motor, whether or not such motor is the principal source of propulsion, but shall not include a vessel which has a valid marine document issued by the Bureau of Customs of the United States government or any federal agency successor thereto.

2.5. "Operate" means to navigate or otherwise use a motorboat or vessel.

2.6. "Owner" means a person, other than a lien holder, having the property in or title to a motorboat. The term includes a person entitled to the use or possession of a motorboat subject to an interest in another person, reserved or created by agreement and securing payment or performance of an obligation, but the term excludes a lessee under a lease not intended as security.

2.7. "Person" means an individual, partnership, firm, corporation, association, or other entity.

2.8. "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 water.

2.9. "Waters of this State" means any public waters within the territorial limits of this State to include that portion of the Ohio River which flows along the boundary of this State.

***09 §47-25-3. Persons Subject to These Regulations.**

3.1. All persons operating a vessel or vessels on the waters of this State and all persons classified as owners within the meaning of ~~subsection 2.3, Section 2~~ Section 2.6 of these regulations are subject to the provisions of these regulations.

***09 §47-25-4. Motorboats Requiring Numbering by the State of West Virginia.**

4.1. All motorboats ~~as defined in subsection 2.2, Section 2 of these regulations,~~ and operating on the waters of this State must be numbered in accordance with the provisions of Chapter 20 of the Code of West Virginia, as amended, and the applicable sections of these regulations.

***09 §47-25-5. Exceptions from Numbering Provisions.**

5.1. Public vessels of the United States, state or municipal vessels, and ships' lifeboats shall be exempt from the numbering provisions of these regulations.

5.2. Motorboats covered by a number in full force and effect awarded pursuant to a federally approved numbering system of another state, provided that such motorboats shall not have been within this State for a period in excess of ~~60~~ sixty (60) consecutive days, shall be exempt from the numbering provisions of these regulations.

5.3. A motorboat from a country other than the United States, temporarily using the waters of this State, shall be exempt from the numbering provisions of these regulations.

5.4. Motorboats used exclusively for racing while participating in races, and the preparation therefore, which have been authorized pursuant to the provisions of Chapter 20 of the Code of West Virginia, as amended, shall be exempt from the numbering provisions of these regulations.

***09 §47-25-6. Application for Number.**

6.1. The owner of each motorboat requiring numbering by this State shall file an application for a number with the director. Applications may be secured from the various county clerks, designated hunting and fishing license

agents, and designated marine supply stores, or by writing to the Department of Natural Resources, State--Office Building--No--3, 1800 Washington Street, East, Charleston, West Virginia 25305, Attention: Motorboat License Section. The application shall be signed by the owner of the motorboat and shall be accompanied by a fee of five dollars (\$5.00). There shall be no fee for motorboats propelled by motors of less than three (3) horsepower. Upon receipt of the application in approved form, the applicant shall be issued a West Virginia certificate of number stating the number awarded to the motorboat.

6.2. Should the ownership of a motorboat change, a new application form with fee shall be filed with the director, and a new certificate of number shall be awarded in the same manner as provided for in an original award of number. The application for number by a new owner of a vessel shall, for purposes of fee, be regarded as an original application for number. The new number shall be identical with the previous one, except where a lienholder acquires title and lawful possession by virtue of his lien, in which case a new number shall be issued.

*09 §47-25-7. Certificate of Number.

7.1. The certificates of number shall be pocket-size and water resistant.

~~7.2. Should the ownership of the motorboat change, a new application form with fee shall be filed with the director and a new certificate of number shall be awarded in the same manner as provided for in an original award of number.~~

~~7.3.~~ 7.2. Such certificate of number shall be valid only until the last day of December of each year. If at the end of such year ownership has remained unchanged, such owner shall, upon application and payment of fee of five dollars (\$5.00), be granted a renewal of such certificate of number for an additional one (1) year period. In order to deal equitably with overlapping periods, the director may issue a six (6) months' license from the period July, one thousand nine hundred seventy-six (1976). The fee shall be one-half (1/2) of the annual fee.

~~7.4.~~ 7.3. The owner shall furnish the Department notice of the transfer of all or any part of his interest, other than the creation of a security interest, in a motorboat numbered in this State, or of the destruction or abandonment of such motorboat, within fifteen (15) days thereof.

~~7.5.~~ 7.4. Any holder of a certificate of number shall

notify the Department within fifteen (15) days, if his address no longer conforms to the address appearing on the certificate and shall, as a part of such notification, furnish the Department with his new address.

~~7-6-~~ 7.5. The certificate of number shall be available at all times for inspection on the motorboat for which issued, whenever such motorboat is in operation.

*09 §47-25-8. Vessel Identification.

~~8.4.-The-number-issued--pursuant--to--these--regulations shall--be--in--accordance-with-the-pattern-described-in-this subsection-~~

8.1. Vessel Numbers.

(a) 8.1.1. The number shall be divided in three parts. The first part shall consist of the symbols WV, identifying the State of West Virginia, followed by a combination of numerals which furnish individual vessel identification. The group of digits appearing after the letters WV shall be separated by an equivalent space (e.g., WV 100 AA).

(b) 8.1.2. The first part of the number shall be an abbreviation in capital letters of the State of West Virginia. The abbreviation of the State of West Virginia shall be WV.

(c) 8.1.3. The remainder of the boat number shall consist of not more than four (4) arabic numerals and two (2) capital letters, in sequence, separated by an equivalent space, in accordance with the serials numerically and alphabetically.

(d) 8.1.4. Since the letters "I", "O", and "Q" may be mistaken for arabic numerals, all letter sequences using "I", "O", and "Q" shall be omitted. Objectionable words formed by the use of letters will not be used.

8.2. Display of Number On Vessel.

(a) 8.2.1. The number awarded, exactly as shown on the certificate of number, shall be painted on or attached to each side of the bow of the vessel for which is was issued.

(b) 8.2.2. The number shall be placed on each side of the forward half of the vessel in such position as to provide clear legibility for identification. The numbers

shall read from left to right and shall be in block characters of good proportion not less than three (3) inches in height. The numbers shall be of a color which will contrast with the background, and so maintained as to be clearly visible and legible (i.e., dark numbers on a light background or light numbers on a dark background).

(e) 8.2.3. No number other than the number awarded to a motorboat or granted reciprocity pursuant to these regulations shall be painted, attached, or otherwise displayed on either side of the bow of such vessel.

8.3. The department will furnish to all applicants two (2) decals bearing the numbers of the current year, which will establish valid registration. The decals are to be displayed on each side of the bow of the boat immediately following (within six (6) inches) the assigned West Virginia number.

***09 §47-25-9. Classification of Vessels.**

9.1. Motorboats ~~and/or~~ and other vessels subject to the provisions of these regulations shall be divided into four classes as follows:

9.1.1. Class A. Less than sixteen (16) feet in length, regardless of horsepower of motor or machinery.

9.1.2. Class 1. Sixteen (16) feet or over and less than twenty-six (26) feet in length, regardless of horsepower of motor or machinery.

9.1.3. Class 2. Twenty-six (26) feet or over and less than forty (40) feet in length, regardless of horsepower of motor or machinery.

9.1.4. Class 3. Forty (40) feet or over but not over sixty-five (65) feet, regardless of horsepower of motor or machinery.

***09 §47-25-10. Required Equipment.**

~~40.4. Lights.--Every vessel in all weathers from sunset to sunrise shall carry and exhibit the following lights when under way and during such time no other lights which may be mistaken for those prescribed shall be exhibited.~~

~~(a) Every motorboat and/or vessel propelled by machinery of Classes A and 1 shall carry the following lights:~~

First.-A bright light aft to show all around the horizon.

Second.-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, so fixed as to throw the light from right ahead to two (2) points abaft the beam of their respective sides.

(b) Every motorboat and/or vessel propelled by machinery of Classes 2 and 3 shall carry the following lights:

First.-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 twenty (20) points of the compass, so fixed as to throw the lights ten (10) points on each side of the vessel; namely, from right ahead to two (2) points abaft the beam on either side.

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

Third.-On the starboard side a green light so constructed as to show an unbroken light over an arc of the horizon of ten (10) points of the compass, so fixed as to throw the light from right ahead to two (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, so fixed as to throw the light from right ahead to two (2) points abaft the beam on the port side. The said side lights shall be fitted with inboard screens of sufficient height so set as to prevent these lights from being seen across the bow.

(c) Motorboats and/or vessels of Classes A and 1 when propelled by sail alone shall carry the combined lantern, but not the white light aft, prescribed by this section. Motorboats of Classes 2 and 3 when so propelled, shall carry the colored side lights, suitably screened, but not the white lights, prescribed by this section. Motorboats of all classes, when so propelled, shall carry ready at hand a lantern or flashlight showing a white light which shall be exhibited in sufficient time to avert collision.

(d) Every white light prescribed by this section shall be of such character as to be visible at a distance of at least two (2) miles. Every colored light prescribed by this section shall be of such character as to be visible at a distance of at least one (1) mile. The "visible" in this

subsection, when applied to lights, shall mean visible on a dark night with clear atmosphere.

(e) When propelled by sail and machinery every vessel shall carry the lights required by this section for a motorboat propelled by machinery only.

(f) Any vessel may carry and exhibit the lights required by the Federal Regulations for Preventing Collisions at Sea, one thousand nine hundred forty eight, (1948) Federal Act of October eleven, one thousand nine hundred fifty one, (October 11, 1951), 33 U.S.C. §143-147(d), as amended, in lieu of the lights required by this section.

(g) Manually propelled vessels shall have ready at hand a lantern showing a white light which shall be temporarily exhibited in sufficient time to prevent collision.

10.2. Other Safety Equipment.

(a) Personal Flotation Devices.

Class A, Type I, II, III, and IV in good and serviceable condition for each person on board and readily available at all times.

(b) Class 1, Class 2, and Class 3. One Type I, II, or III (wearable) personal flotation device for each person on board and one Type IV (throwable) personal flotation device in each boat in good and serviceable condition and readily available at all times.

(c) Motorboats of Class A (less than 16 feet in length)

1. Lifesaving Devices. Types I, II, III, and IV. Fire extinguisher. See table.

2. Ventilation Systems. All motorboats with a deck or partial deck with an enclosed engine compartment must be provided with a ventilation system as set forth in Coast Guard regulations (technical details may be found in CG-395). Open construction boats are exempt from ventilation requirements.

3. Flame Arrestor. Carburetors on all engines on motorboats, other than outboard engines, shall be fitted with an approved device for arresting backfire.

(d) Motorboats of Class 1 (16 feet to less than 26 feet in length) -- The same equipment as required by a Class A motorboat is required on this class boat, however, Personal Flotation Device, Class I, II, and III (wearable) -- personal flotation device -- for each person on board and one Type IV (throwable) -- personal flotation device -- in each boat. -- The only addition is a hand-mouth, or power-operated whistle or horn capable of producing a blast of at least two seconds duration and audible for a distance of at least one-half (1/2) mile.

(e) Motorboats of Class 2 (26 feet to less than 40 feet in length).

1. -- Life-Saving Devices. -- Same as Class I.

2. -- Bell. -- One which, when struck, produces a clear, bell-like tone of full-round characteristics.

3. -- Horn or Whistle. -- One hand or power operated whistle or horn capable of producing a blast of at least two (2) seconds duration and audible for a distance of one (1) mile.

4. -- Fire Extinguisher. -- See table.

5. -- Ventilation. -- Same as for a Class A motorboat.

6. -- Flame Arrestor. -- Same as for a Class A motorboat.

(g) Fire Extinguishers.

FIRE-EXTINGUISHER CLASSIFICATION

Each fire extinguisher is classified, by letter and number, according to the type of fire it may be expected to extinguish, and the size of the extinguisher. -- The letter indicates the type of fire; -- "A" -- for fires in ordinary combustible materials; -- "B" -- for gasoline, oil and grease fires; -- "C" -- for fires in electrical equipment. -- Extinguishers approved for motorboats are hand-portable, or either B-1 or B-14 classification.

FIRE-EXTINGUISHERS

| | CARBON | DRY | | |
|----------------|----------|----------|----------|----------|
| CLASSIFICATION | FOAM | DIOXIDE | CHEMICAL | FREON |
| (type size) | (minimum | (minimum | (minimum | (minimum |

| | gallons) | pounds) | pounds) | pounds) |
|------|----------|---------|---------|---------|
| B-14 | 4 1/4 | 4 | 2 | 2 1/2 |
| B-1 | 2 1/2 | 15 | 10 | |

NOTE:--Carbon-tetrachloride-extinguishers-and-ethers of the--toxic-vaporizing-liquid-type-such-as-chlorobromomethane are-not-approved-and--are--not--accepted--as--required--fire extinguishers.

(h)-Motorboats-Which-Carry-Passengers-for-Hire. Motorboats-which-carry-passengers-for-hire-shall-be-provided with-an-approved-life-preserver--(paragraph--40.2--(j), Section-10-of-these-regulations),--(buoyant-vests,--ring buoys,--or-buoyant-cushions-will-not-suffice)--for-each-person carried,--and--with-additional--number--of--approved--life preservers-suitable-for-children,--equal--to--at--least--ten (10%)--percent--of--the--total--number--of--persons-carried. Motorboats-while-carrying-passengers-for-hire-shall-be operated--and--navigated--by--a--person-duly-licensed-by-the Coast-Guard. Motorboats-carrying-more--than--six--(6) passengers-are-required-to-be-inspected-and-certified-by-the Coast-Guard.

NOTE:--The-"Rules-of-the-Road"--place--upon--the--owner, masters,--or-operators-of-all-motorboats,--responsibility-for giving-and-answering-passing-signals-on-whistle,--fog-horn, or-bell-as-prescribed,--although-the-Federal-Motorboat-Act-of April--25,--1940,--does-not-require-such-signaling-equipment aboard-certain-classes-of-motorboats. In-case-of-accident or--casualty,--the--courts--would--undoubtedly--give--great consideration-to-any-lack-of-such-equipment--in--fixing responsibility.

(i)-Coast-Guard-Approved-Equipment.

4.---Definition,---"Coast---Guard---Approved Equipment"--is--equipment--which--has--been--approved--by--the Commandant,--United--States--Coast--Guard,--after-it-has-been determined-to-be-in-compliance-with-the-various-Coast--Guard specifications--and-regulations-relating-to-the-construction and-performace-of-such-equipment. Names--or--manufacturers of--approved-equipment-and-approval-numbers-assigned-to-them for-various-types-of-equipment-are-contained-in-Coast--Guard Booklet--CG-490,--Equipment--Lists,--which--is--published approximately-once--each--year. This--publication--may--be obtained-upon-application-to-any-Coast-Guard-District-Office or-any-Officer-in-Charge,--Marine-Inspection.

(j)-Lifesaving-Devices.

1.---Life--Preservers,---Performance--Type---I
Personal-Flotation-Device.

a.---Construction,---Approved---life preservers--are--of--jacket-design,--constructed-with-pads-of kapok,--fibrous--glass,--cork--or--balsa--wood,--in--a--cloth covering-which-is-fitted-with-the-necessary-straps-and-ties. Adult-and-child-sizes-are-available-and-are-so-marked. Since 1949,--all-approved-life-preservers-have-been-required-to-be Indian-Orange-in-color.

b.---Markings,---Approved--life--preservers must--bear-two-markings,--the-manufacturer's-stamp-indicating the-approved-number,--and-the--inspector's--stamp--indicating that--the--preserver-has-been-inspected-and-passed.---Current stamps-follow:

Adult--(or--child)
Model---No.-----
Manufacturer's---Name---and---Address
U.S.C.G.---Approval-No.-----
Inspected--and--passed
Date
Place
U.S.C.G.
Inspector's-Initials

2.---Buoyant--Cushions,---Performance--Type--IV
Personal-Flotation-Device.

a.---Construction,---Currently---approved buoyant--cushions--may--have--as--buoyant--material,--kapok, fibrous-glass,--or-plastic-foam--covered--with--grab--straps. They-come-in-a-variety-of-sizes-and-shapes-and-may-be-of-any color.

b.---Markings,---Approved-buoyant--cushions currently-being-manufactured-are-all-marked-with-a-cloth-tag attached--to-the-boxing-or-border-of-the-cushion-on-which-is printed-the-following-information:

BUOYANT-CUSHION
Size-(width,-length,-thickness)
Contains-----or---(kapok-or-fibrous-glass)
or-----or---in---foam
Approved-for-use-on-motorboats-of-Glass-A,--not carrying-passengers-for-hire.
United-States-Coast-Guard-Approval-No.-----
Lot-No.-----
Instructions-for-Care-of-Cushion
Name-and-Address-of-Manufacturer

3. Ring-Buoys, Performance-Type-IV--Personal
Flotation-Device.

a. Construction. Approved ring-buoys are available in 30-inch, 24-inch, and 20-inch sizes, and may be constructed of cork or balsa wood, with a canvas cover, or plastic foam with special surface. All buoys are fitted with a grab-line and they may be either white or orange in color.

b. Markings. Cork and balsa wood ring buoys must bear two markings, the manufacturer's stamp and the inspector's stamp, which are similar to those described above for life preservers. Since ring-buoys must be painted from time to time, Coast-Guard-boarding-officers and conservation-officers have been instructed to accept cork and balsa wood ring-buoys in good condition even though the approval marks are not visible. Plastic foam-buoys bear only one marking, a metal nameplate attached to the buoy on which appears the following:

Name and Address of Manufacturer
Size of Buoy (30-inch, 24-inch, or 20-inch)
United States Coast-Guard Approval No. _____
U.S.C.G. Inspector's Initials

4. Buoyant Vests, Performance--Type--II
Personal-Flotation-Device.

a. Construction. Approved buoyant vests are of vest design, constructed of pads of either kapok or fibrous glass, with a cloth covering, and straps and ties attached. They are made in three sizes, two child sizes and one adult size, and may be any color.

b. Markings. Approved buoyant vests are all marked with a cloth tag attached to the cover on which is printed the following information:

BUOYANT VEST
Model No. _____
Adult (or child)
Approved for use on motorboats of Class A, 1, 2,
or 3 not carrying passengers for hire
United States Coast-Guard Approval No. _____
Lot No. _____
Instructions for Care of Vest
Name and Address of Manufacturer
Weight ranges for child sizes

5. Special Purpose Water Safety Buoyant

Device.

a. A device intended to be worn may be equivalent to Type II or Type III. A device that is equivalent to Type III is marked "Type III Device may not turn unconscious wearer."

Fire Extinguishers. Approved types of fire extinguishers are identified by make and model number. Check the marking on the extinguisher nameplate against the model number listed under the company's name in the Equipment Lists Booklet, CG-190.

Caution. When purchasing approved equipment insist on a sales slip describing the article as Coast Guard approved.

10.3. No person shall operate or give permission for the operation of a vessel which is not equipped as required by these regulations.

10.1. General. No person shall operate or give permission for the operation of a vessel which is not equipped as required under the provisions of Section 10 of these regulations.

10.2. Lights.

10.2.1. Every vessel in all weathers from sunset to sunrise shall carry and exhibit the following lights when under way and, during such time, no other lights which may be mistaken for those prescribed shall be exhibited.

10.2.2. Every motorboat or other vessel propelled by machinery of Class A or Class 1 shall carry the following lights:

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

10.2.2.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, so fixed as to throw the light from right ahead to two (2) points abaft the beam of their respective sides.

10.2.3. Every motorboat or other vessel propelled by machinery of Class 2 or Class 3 shall carry the following lights:

10.2.3.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 twenty (20) points of the compass, so fixed as to throw the lights ten (10) points on each side of the vessel; namely, from right ahead to two (2) points abaft the beam on either side.

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

10.2.3.c. On the starboard side a green light so constructed as to show an unbroken light over an arc of the horizon of ten (10) points of the compass, so fixed as to throw the light from right ahead to two (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, so fixed as to throw the light from right ahead to two (2) points abaft the beam on the port side. The said side lights shall be fitted with inboard screens of sufficient height so set as to prevent these lights from being seen across the bow.

10.2.4. Motorboats or other vessels of Classes A and 1 when propelled by sail alone shall carry the combined lantern, but not the white light aft, as prescribed in Section 10.2.2.b of these regulations. Motorboats of Classes 2 and 3 when so propelled, shall carry, the colored side lights, suitably screened, but not the white lights, as prescribed in Section 10.2.3.c of these regulations. Motorboats of all classes, when so propelled, shall carry ready at hand a lantern or flashlight showing a white light which shall be exhibited in sufficient time to avert collision.

10.2.5. Every white light prescribed by Section 10 of these regulations shall be of such character as to be visible at a distance of at least two (2) miles. Every colored light prescribed by Section 10 of these regulations shall be of such character as to be visible at a distance of at least one (1) mile. The term "visible" shall mean visible on a dark night with clear atmosphere.

10.2.6. Every vessels when propelled by sail and machinery shall carry the lights required under Section 10 of these regulations for a motorboat propelled by machinery only.

10.2.7. Any vessel may carry and exhibit the lights required by the Federal Regulations for Preventing Collisions at Sea, one thousand nine hundred forty-eight, (1948) Federal Act of October eleven, one thousand, nine

hundred fifty-one, (October 11, 1951), 33 U.S.C. §143-147(d), as amended, in lieu of the lights required by Section 10 of these regulations.

10.2.8. Manually propelled vessels shall have ready at hand a lantern showing a white light which shall be temporarily exhibited in sufficient time to prevent collision.

10.3. Personal Flotation Devices.

10.3.1. Motorboats and other vessels of Class A shall carry a Coast Guard approved Type I, II, III, and IV personal flotation device in good and serviceable condition, and readily available at all times, for each person on board.

10.3.2. Motorboats and other vessels of Class 1, Class 2, or Class 3 shall carry a Coast Guard approved Type I, II, or III (wearable) personal flotation device in good and serviceable condition, and readily available at all times, for each person on board. In addition, motorboats and other vessels of Class 1, Class 2, or Class 3 shall carry at least one Coast Guard approved Type IV (throwable) personal flotation device in good and serviceable condition and readily available at all times.

10.4. Fire Extinguishers.

10.4.1. Motorboats of Class A, Class 1, or Class 2 shall carry a Coast Guard approved fire extinguisher of either B-1 or B-11 classification, unless exempted from this requirement under Section 10.4.2 of these regulations.

10.4.2. Motorboats need not carry a fire extinguisher if the following conditions are met:

10.4.2.a. The construction of the motorboat is such that flammable or explosive vapors cannot be trapped within;

10.4.2.b. The motorboat has no enclosed engine compartments; and

10.4.2.c. The motoboat has no permanently installed fuel tanks.

10.5. Other Safety Equipment.

10.5.1. Class A Motorboats. Motorboats of this class shall have the following:

10.5.1.a. Ventilation Systems. All motorboats with a deck or partial deck or with an enclosed engine compartments must be provided with a ventilation system as set forth in Coast Guard regulations (technical details may be found in CG-395). Open construction boats are exempt from ventilation requirements.

10.5.1.b. Flame Arrestor. Carburetors on all engines on motorboats, other than outboard engines, shall be fitted with an approved device for arresting backfire.

10.5.2. Class 1 Motorboats. Motorboats of this class shall meet the equipment requirements of Section 10.5.1 of these regulations and in addition shall have a hand-mouth or power-operated whistle or horn capable of producing a blast of at least two (2) seconds duration and audible for a distance of at least one-half (1/2) mile.

10.5.3. Class 2 Motorboats. Motorboats of this class shall meet the equipment requirements of Section 10.5.1 of these regulations and in addition shall have the following:

10.5.3.a. Bell. One which, when struck, produces a clear, bell-like tone of full round characteristics.

10.5.3.b. Horn or Whistle. One hand or power operated whistle or horn capable of producing a blast of at least two (2) seconds duration and audible for a distance of one (1) mile.

*09 §47-25-11. Special Requirements for Motorboats Which Carry Passengers for Hire.

11.1. Motorboats which carry passengers for hire shall be provided with a Coast Guard approved Type 1 personal floatation device for each person carried, and with additional number of Coast Guard approved Type 1 personal floatation devices suitable for children equal to at least ten (10%) percent of the total number of persons carried.

11.2. Motorboats while carrying passengers for hire shall be operated and navigated by a person duly licensed by the United States Coast Guard.

11.3. Motorboats carrying more than six (6) passengers are required to be inspected and certified by the Coast Guard.

*09 §47-25-11 §47-25-12. Boat Liveries.

~~44-4-~~ 12.1. The owner of a boat livery shall cause to be kept a record of the name and address of the person or persons hiring any vessel which is designed or permitted by him to be operated as a vessel, the identification number thereof, and the departure date and time, and the expected time of return.

~~44-2-~~ 12.2. Neither the owner of a boat livery nor his agent or employee shall permit a motorboat or any vessel designed or permitted by him to be operated as a motorboat to depart from his premises unless it shall have been provided, either by owner or renter, with the equipment required pursuant to those regulations.

~~44-3-~~ Numbering-Livery-Boats-

~~(a)~~ 12.3. The numbering requirements of these regulations shall apply to livery boats except:

~~(b)~~ 12.3.1. The certificate of number of a livery boat shall be plainly marked "livery boat."

~~(c)~~ 12.3.2. The description of the motor and type of fuel will be omitted from the certificate of number in any case where the motor is not rented with the boat.

*09 ~~§47-25-42~~ §47-25-13. Prohibited Operation.

~~42-4-~~ 13.1. No person shall operate any motorboat or vessel, or manipulate any water skis, surfboard, or similar device in a reckless or negligent manner so as to endanger the life, limb, or property of any person.

~~42-2-~~ 13.2. No persons shall operate any motorboat or vessel, or manipulate any water skis, surfboard, or similar device while intoxicated, or under the influence of any narcotic drug, barbituate or marijuana.

~~42-3-~~ 13.3. It shall be unlawful for the owner of any motorboat or vessel, or any person having such in charge or in control to authorize or knowingly permit the same to be operated by any person who by reason of physical or mental disability is incapable of operating such watercraft under the prevailing circumstances.

~~42-4-~~ 13.4. No person shall operate, or knowingly permit any person to operate, any motorboat or 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; provided, however, that nothing in these regulations is intended to prevent the

operator of a vessel actually competing in a regatta which is sanctioned, under the provisions of Chapter 20 of the Code of West Virginia, as amended, from attempting to attain high speeds on a marked racing course.

~~42-5-~~ 13.5. No person shall make reckless approach to, or passage by, a dock, ramp, diving board, or float.

~~42-6-~~ 13.6. Skiers being pulled by motorboats must have on their person a Coast Guard approved life preserver, buoyant vest, or ring buoy except as provided by Section 19.6 of these regulations.

***09 ~~§47-25-13~~ §47-25-14. Right-of-Way.**

~~43-4-~~ 14.1. When two vessels are approaching each other "head on," or nearly so (so as to involve risk of collision), each vessel shall bear to the right and pass the other vessel on its left side.

~~43-2-~~ 14.2. When vessels approach each other obliquely or at right angles, the vessel approaching on the right side has the right-of-way.

~~43-3-~~ 14.3. One vessel may overtake another on either side but shall grant right-of-way to the overtaken vessel.

~~43-4-~~ 14.4. When a sailboat and motorboat are operating as to involve a risk of collision with each other, the motorboats shall yield the right-of-way to the sailboat in all cases.

~~43-5-~~ 14.5. All motorboats shall be operated in conformance with the Rules of the Road, Western Rivers.

***09 ~~§47-25-14~~ §47-25-15. Restricted Areas.**

~~44-4-~~ 15.1. No person shall so anchor a vessel or other obstacles for fishing or pleasure purposes, on any body of water over which the State has jurisdiction, in such a position as to obstruct a passageway ordinarily used by other vessels.

~~44-2-~~ 15.2. No person shall operate a pleasure vessel within twenty (20) feet of the exterior boundary of a water area which is clearly marked by buoys, or some other distinguishing device, as a bathing or swimming area.

~~44-3-~~ 15.3. Swimming areas shall be marked with yellow and red-colored buoys by the owners of such areas.

~~44.4.~~ 15.4. No person shall operate or knowingly permit any person to operate a vessel within twenty (20) feet of a person engaged in fishing, without permission, or unless unavoidable.

~~44.5.~~ 15.5. No person shall anchor or tie to any type of navigation aid or buoy.

*09 ~~§47-25-15~~ §47-25-16. Overloading and Overpowering.

~~45.4.~~ 16.1. No vessel shall be loaded with passengers or cargo beyond its safe carrying capacity, taking into consideration weather and other normal operating conditions.

~~45.2.~~ 16.2. No vessel shall be equipped with any motor or other propulsion machinery beyond its safe power capacity, taking into consideration the type and construction of such watercraft and other existing operating conditions.

*09 ~~§47-25-46~~ §47-25-17. Collisions, Accidents, and Casualties.

~~46.4.~~ 17.1. It shall be the duty of the operator of a vessel involved in a collision, accident, or other casualty, so far as he can do without serious danger to his own vessel, crew, and passengers (if any), to render to other persons affected by the collision, accident or other casualty such assistance as may be practicable and as may be necessary in order to save them from or minimize any danger caused by the collision, accident, or other casualty, and also to give his name, address, and identification of his vessel in writing to any person injured and to the owner of any property damaged in the collision, accident or other casualty.

~~46.2.~~ 17.2. In the case of a collision, accident or other casualty involving a vessel, the operator thereof, if the collision, accident or other casualty results in death or injury to a person or damage to property in excess of one hundred dollars (\$100), shall file with the Department a full description of the collision, accident, or other casualty by completion in triplicate, on West Virginia Boating Accident Report - Department of Natural Resources Form MB-3 (July 1, 1975). Reports in death cases must be submitted within forty-eight (48) hours; reports in other cases are required within five (5) days. All reports shall be submitted in person, or by mail to the Department of Natural Resources, 1800 Washington Street, East, Charleston, West Virginia 25305, Attention: Motorboat Safety Section.

~~(a)~~ 17.2.1. The Department of Natural Resources Form MB-3 (July 1, 1975) shall be used for the report as required by ~~this section~~ Section 17 of these regulations.

~~(b)~~ 17.2.2. A report is required whenever a vessel subject to these regulations is involved in a "boat accident" which results in any one or more of the following:

~~4-~~ 17.2.2.a. Loss of life.

~~2-~~ 17.2.2.b. Injury causing any person to remain incapacitated for a period in excess of seventy-two (72) hours.

~~3-~~ 17.2.2.c. Actual physical damage to property (including vessels) in excess of one hundred dollars.

*09 ~~§47-25-47~~ §47-25-18. Transmittal of Information.

~~47-4-~~ 18.1. In accordance with any request duly made by an authorized official or agency of the United States, any information compiled or otherwise available to the Department of Natural Resources of the State of West Virginia pursuant to these regulations shall be transmitted to said official or agency of the United States.

*09 ~~§47-25-48~~ §47-25-19. Water Skis and Surfboards.

~~48-4-~~ 19.1. No person shall operate a vessel on any waters of this State towing a person or persons on water skis, surfboard, or similar device, nor shall any person engage in waterskiing, surfboarding, or similar activity at any time between the hours from one (1) hour after sunset to one (1) hour before sunrise.

~~48-2-~~ 19.2. No person shall operate a motorboat on any waters of this State for towing a person or persons on water skis, surfboard, or similar device unless there is in such motorboat a person, in addition to the operator, in a position to observe the progress of the person or persons being towed or such motorboat is equipped with a wide-angle rear view mirror mounted in such a manner as to permit the operator of the motorboat to observe the progress of the person or persons being towed.

~~48-3-~~ 19.3. The provisions of ~~Sections--48-1--and--48-2~~ Sections 19.1 and 19.2 of these regulations do not apply to a performer in a professional exhibition, or a person or persons engaged in an activity authorized under the provisions of The Chapter 20 of the Code of West Virginia,

as amended.

~~48-4-~~ 19.4. No person shall 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 the water skis, surfboard, or similar device, or any person thereon to collide with or strike against any object or person.

~~48-5-~~ 19.5. All right-of-way rules applying to the towing vessel shall apply.

19.6. Persons engaged in barefoot waterskiing may elect at their own risk to wear a non-Coast Guard approved barefoot wetsuit designed specifically for such activity.

*09 ~~§47-25-19~~ §47-25-20. Skin or Scuba Diving.

~~49-4-~~ 20.1. No person shall skin or scuba dive in any waters of the State that is used by powerboats unless the diving area is marked by a minimum of two (2) "diver down" flags. Diver down flag shall be a red field of not less than ten (10) inches by ten (10) inches dimension with a white diagonal stripe not less than one and one-half (1-1/2) inches wide running upper left to lower right. Flags shall be displayed at all times while diver is in the water. Diving flags must be anchored, affixed to separate flotation devices, be within sight and not more than one hundred (100) feet apart. All powerboats will remain a minimum distance of one hundred (100) feet away from the marker flags. The top of the flag shall be at least three (3) feet above the surface of the water. Divers must come up within fifty (50) feet of the flag. Divers shall not dive in heavily traveled boat lanes, marked swimming areas, or areas set aside for waterskiing. Diving in government-owned reservoirs is covered by special regulations.

*09 ~~§47-25-20~~ §47-25-21. Penalties.

~~20.4.-Any-person-violating-any-of-the-provisions-of-this chapter-or-rules-and-regulations-promulgated-under-the provisions-of-the-chapter,-the-punishment-for-which-is-not prescribed,-shall-be-guilty-of-a-misdemeanor,-and,-upon conviction-thereof,-shall-for-each-offense-be-fined-not-less than-twenty-dollars-(\$20)-nor-more-than-three-hundred dollars-(\$300),-or-confined-in-jail-not-less-than-ten-(10) or-more-than-one-hundred-(100)-days,-or-be-both-fined-and imprisoned-within-the-limitations-aforsaid;-and,-in-the case-of-a-violation-by-a-corporation,-every-officer-or-agent thereof-directing-or-engaging-in-such-violation-shall-be guilty-of-a-misdemeanor-and,-upon-conviction-thereof,-shall~~

be--subject--to--the--same--penalties--and--punishment--as--herein
provided.

21.1. Any person violating any of the provisions of
these regulations is subject to the penalties prescribed in
W. Va. Code §20-7-9.

*09 §47-25-24 §47-25-22. Special Regulations.

24.4. 22.1. Boating in government-owned reservoirs is
covered by special regulations. Copies may be obtained at
the-reservoir-offices.

Note:---Ohio--River---Boaters,----When---entering---Ohio
territorial--waters--you--will--be--governed--by--Ohio--Boat--Law--&
Regulations--(i.e.,--Ohio--requires--all--boats--to--be--licensed).