

WEST VIRGINIA
SECRETARY OF STATE
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ADMINISTRATIVE LAW DIVISION

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SECRETARY OF STATE

NOTICE OF RULE MODIFICATION OF A PROPOSED RULE

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, FOLLOWING REVIEW BY THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE IS HEREBY MODIFIED AS A RESULT OF REVIEW AND COMMENT BY THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE. THE ATTACHED MODIFICATIONS ARE FILED WITH THE SECRETARY OF STATE.



PREAMBLE FOR MODIFICATIONS TO
AGENCY-APPROVED AMENDMENTS TO LEGISLATIVE RULES
DEPARTMENT OF NATURAL RESOURCES
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: Modification of Approved Rules

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

SUMMARY: At the direction of the Legislative Rule-Making Review Committee, the Department is modifying agency-approved amendments to its Series 25 boating regulations. Sections 4 through 8 and 11.3 of the current regulations concern the issuance of certificates of number (vessel numbers), procedures which are no longer administered by the Department of Natural Resources. Amendments to the W. Va. Code §§20-7-12 and 20-7-15 made in 1979 place authority to govern vessel number issuance with the Department of Motor Vehicles. Thus, the Department of Natural Resources no longer holds the statutory authority necessary to promulgate or enforce Sections 4 through 8 and 11.3 of its Series 25 boating regulations and is therefore eliminating these sections from the agency-approved amendments that were filed on July 28, 1987.

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*10 TITLE 47
LEGISLATIVE RULES
DEPARTMENT OF NATURAL RESOURCES

1987 AUG -7 14 40 53

SERIES 25
BOATING REGULATIONS

SECRETARIAT OF STATE

*09 §47-25-1. General.

~~1.1. Scope. --- 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.~~

1.1. Scope and Purpose. --- 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.~~

~~2.6. "Operate"---To navigate or otherwise use a motorboat or vessel.~~

~~2.7. "Department"---The Department of Natural Resources.~~

~~2.8. "Director"---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, 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.

2.5. "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 2.6 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 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, 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.

§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. 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. 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. 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. 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.

(a) 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 400 AA).

(b) 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) 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) 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) 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) 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)--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)--decal--bearing--the--numbers--of--the--current--year,--which will--establish--valid--registration--The--decal--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 §47-25-4. Classification of Vessels.

9.4. 4.1.1. Motorboats and/or and other vessels subject to the provisions of these regulations shall be divided into four classes as follows:

9.4.4. 4.1.1. Class A. Less than sixteen (16) feet in length, regardless of horsepower of motor or machinery.

9.4.2. 4.1.2. Class 1. Sixteen (16) feet or over and less than twenty-six (26) feet in length, regardless of horsepower of motor or machinery.

9.4.3. 4.1.3. Class 2. Twenty-six (26) feet or over and less than forty (40) feet in length, regardless of horsepower of motor or machinery.

9.4.4. 4.1.4. 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.

10.1. 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, (4048) Federal Act of October eleven, one thousand nine hundred fifty one, (October 44, 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.

40.2. 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 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.

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

B-44	1-1/4	4	2	2-1/2
B-4	2-1/2	15	10	

NOTE:--Carbon-tetrahalide-extinguishers-and-others 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-10.2-(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.

1.---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-190,-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.

4. --- 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 --- in --- foam.
Approved for use on motorboats of Class 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

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-11-classification.

FIRE-EXTINGUISHERS

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

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,--GG-490.

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

40-3.-No person shall operate or give permission for the operation--of--a--vessel--which--is--not--equipped--as--required--by these--regulations.

*09 §47-25-5. Required Equipment.

5.1. 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 5 of these regulations.

5.2. Lights.

5.2.1. 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.

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

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

5.2.2.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.

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

5.2.3.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.

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

5.2.3.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.

5.2.4. 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 5.2.2.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 5.2.3.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.

5.2.5. Every white light prescribed by Section 5 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 5 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.

5.2.6. Every vessels when propelled by sail and machinery shall carry the lights required under Section 5 of these regulations for a motorboat propelled by machinery only.

5.2.7. 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 5 of these regulations.

5.2.8. 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.

5.3. Personal Flotation Devices.

5.3.1. 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.

5.3.2. 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.

5.4. Fire Extinguishers.

5.4.1. 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 5.4.2 of these regulations.

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

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

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

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

5.5. Other Safety Equipment.

5.5.1. Class A Motorboats. Motorboats of this

class shall have the following:

5.5.1.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.

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

5.5.2. Class 1 Motorboats. Motorboats of this class shall meet the equipment requirements of Section 5.5.1 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.

5.5.3. Class 2 Motorboats. Motorboats of this class shall meet the equipment requirements of Section 5.5.1 of these regulations and in addition shall have the following:

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

5.5.3.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 §47-25-6. Special Requirements for Motorboats Which Carry Passengers for Hire.

6.1. 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.

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

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

*09 §47-25-44 §47-25-7. Boat Liveries.

~~41-4-~~ 7.1. 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.

~~41-2-~~ 7.2. 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 these regulations.

~~41-3--Numbering-Livery-Boats-~~

~~(a)-The--numbering--requirements--of--these--regulations shall-apply-to-livery-boats-~~

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

~~(c)-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 §47-25-8. Prohibited Operation.

~~42-4-~~ 8.1. 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-~~ 8.2. 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--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-~~

8.3. No person shall operate, or knowingly permit any person to operate, any motorboat or other vessel if, by reason of physical or mental disability, he is incapable of operating such vessel in a safe manner.

~~42-4-~~ 8.4. 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-~~ 8.5. No person shall make reckless approach to, or passage by, a dock, ramp, diving board, or float.

~~42-6-~~ 8.6. 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 14.6 of these regulations.

*09 ~~§47-25-13~~ §47-25-9. Right-of-Way.

~~43-4-~~ 9.1. When two vessels are approaching each other "head on" or nearly 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-~~ 9.2. When vessels approach each other obliquely or at right angles, the vessel approaching on the right side has the right-of-way.

~~43-3-~~ 9.3. One vessel may overtake another on either side but shall grant right-of-way to the overtaken vessel.

~~43-4-~~ 9.4. 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-~~ 9.5. All motorboats shall be operated in conformance with the Rules of the Road, Western Rivers.

*09 ~~§47-25-14~~ §47-25-10. Restricted Areas.

~~44-4-~~ 10.1. 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-~~ 10.2. 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.~~ 10.3. Swimming areas shall be marked with yellow and red-colored buoys by the owners of such areas.

~~44.4.~~ 10.4. 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.~~ 10.5. No ~~person~~ vessel shall anchor or tie to any type of navigation aid or buoy.

*09 ~~§47-25-45~~ §47-25-11. Overloading and Overpowering.

~~45.4.~~ 11.1. 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.~~ 11.2. 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~~ vessel and other existing operating conditions.

*09 ~~§47-25-46~~ §47-25-12. Collisions, Accidents, and Casualties.

~~46.4.~~ 12.1. 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.~~ 12.2. 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, of ~~West--Virginia Boating--Accident--Report---Department-of-Natural-Resources Form-MB-3-(July-4,-1975)~~ Form MB-3. Reports in ~~death--cases~~

cases involving loss of life 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) 12.2.1. The Department of Natural Resources Form MB-3 (July 1, 1975) shall be used for the report as required by ~~this section~~ Section 12 of these regulations.

(b) 12.2.2. 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- 12.2.2.a. Loss of life.

2- 12.2.2.b. Injury causing any person to remain incapacitated for a period in excess of seventy-two (72) hours.

3- 12.2.2.c. Actual physical damage to property (including vessels) in excess of one hundred dollars (\$100).

*09 ~~§47-25-17~~ §47-25-13. Transmittal of Information.

~~47-4-~~ 13.1. 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 ~~§47-25-18~~ §47-25-14. Water Skis and Surfboards.

~~48-4-~~ 14.1. 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-~~ 14.2. 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-~~ 14.3. The provisions of ~~Sections 14.1 and 14.2~~ 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-~~ 14.4. 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-~~ 14.5. All right-of-way rules applying to the towing vessel shall apply.

14.6. 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 in lieu of a Coast Guard approved life preserver, buoyancy vest, or ring buoy required under Section 8.6 of these regulations.

***09 §47-25-19 §47-25-15. Skin or Scuba Diving.**

~~49-4-~~ 15.1. 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 §47-25-16. Penalties.**

~~20-1.-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 aforesaid; 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.

16.1. 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 §47-25-17. Special Regulations.

24.4. 17.1. 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).



WEST VIRGINIA LEGISLATURE
 LEGISLATIVE RULE-MAKING REVIEW COMMITTEE
 Room M-438, State Capitol
 Charleston, West Virginia 25305
 (304) 340-3286

FILED

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 Marie Nickerson, Receiving Clerk

Senator Larry A. Tucker, Co-Chairman
 Delegate Thomas A. Knight, Co-Chairman

August 10, 1987

NOTICE OF ACTIONS TAKEN BY LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

TO: Ken Hechler, Secretary of State, State Register

TO: Ronald R. Potesta, Director
 Department of Natural Resources
 Building 3, Room 669, State Capitol
 Charleston, WV 25305

FROM: Legislative Rule-Making Review Committee

PROPOSED RULE: Boating Regulations

The Legislative Rule-Making Review Committee recommends that the West Virginia Legislature:

1. Authorize the agency to promulgate the Legislative Rule
 - (a) as originally filed
 - (b) as modified by the agency X
2. Authorize the agency to promulgate part of the Legislative rule; a statement of reasons for such recommendation is attached.
3. Authorize the agency to promulgate the Legislative rule with certain amendments; amendments and a statement of reasons for such recommendation is attached.
4. Authorize the agency to promulgate the Legislative rule as modified with certain amendments; amendments and a statement of reasons for such recommendation is attached.
5. Recommends that the rule be withdrawn; a statement of reasons for such recommendation is attached.

Pursuant to Code 29A-3-11(c), this notice has been filed in the State Register and with the agency proposing the rule.

cc: Dennis H. Treacy
 Director's Off. of Reg. Affairs