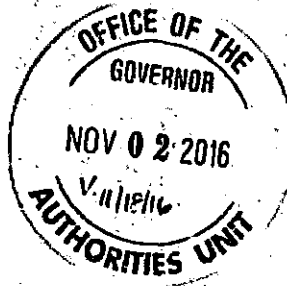


 **New Jersey
Motor Vehicle Commission**

P.O. Box 160
Trenton, New Jersey 08666-0160

STATE OF NEW JERSEY



Chris Christie
Governor

Kim Guadagno
Lt. Governor

Raymond P. Martinez
Chairman and Chief Administrator

November 2, 2016

Honorable Chris Christie
Governor, State of New Jersey
State House
125 West State Street
Post Office Box 001
Trenton, NJ 08625-0001

Dear Governor Christie:

In accordance with Section 17 of The Motor Vehicle Security and Customer Service Act of 2003, constituting Chapter 13 of the laws of 2003 of the State of New Jersey, as amended pursuant to P. L. 2007, Chapter 335 and pursuant to P. L. 2009, Chapter 298, I herein transmit the minutes of actions taken at the open session of the Special Meeting of the New Jersey Motor Vehicle Commission Board at Floor 9W, Motor Vehicle Commission Headquarters, Wednesday, November 2, 2016.

Thank you.

Sincerely,


John G. Donnelly
Board Secretary

Enclosure

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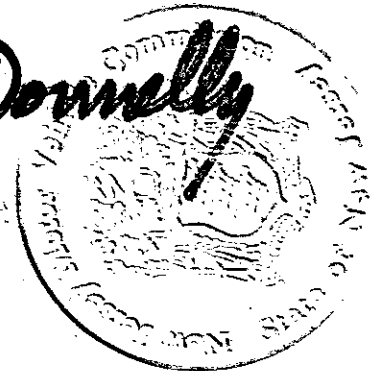
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Thank you.

Sincerely,



John G. Donnelly
Board Secretary



Enclosure

NEW JERSEY MOTOR VEHICLE COMMISSION

Minutes by Board Secretary John G. Donnelly of actions taken at the Open Session of the Regular Meeting of the New Jersey Motor Vehicle Commission (MVC) Board held at Floor 9W, Motor Vehicle Commission Headquarters, 225 East State Street, Trenton, New Jersey on Wednesday, November 2, 2016.

Present:

Raymond P. Martinez, Chairman (by speakerphone)
Steve Scaturro, Vice-Chairman (by speakerphone)
Scott Kisch, Public Board Member (by speakerphone)
Walter Orcutt, Public Board Member (by speakerphone)
Laurette Asante, Public Board Member (by speakerphone)
John Case, Transportation Commissioner Designee (by speakerphone)
James Fruscione, State Treasurer Designee (by speakerphone)

Governor's Authorities Unit Assistant Counsel Lisa LeBoeuf and Deputy Attorney General Philip Espinosa participated by speakerphone. Highway Traffic Safety Acting Director Gary Poedubicky, Attorney General Designee, was not able to attend.

Chairman Raymond P. Martinez convened the Open Session at 10:05 a.m. in accordance with the Open Public Meetings Act.

Agenda Approval. Vice-Chairman Scaturro moved to accept the proposed agenda, Board Member Asante seconded the motion and it was unanimously adopted.

The following Agenda Item was presented for approval:

1611-01: Boating Regulation. This action is to meet the statutory provision of the Motor Vehicle Security and Customer Service Act to promulgate regulations for the proper functioning of the Commission, including this proposed readoption with amendment of the boating regulation. Jeff Pistol of the Regulatory and Legislative Affairs Office presented the regulation.

Director Poedubicky moved the resolution, Director Fruscione seconded it and it was unanimously adopted.

Public Comments: While six members of the public reported to Floor 9W meeting site as notified, no members of the public sought to make a public comment.

Chair Martinez thanked the Board Members, staff and public for their participation today and noted that Board Meetings are an important means of assuring the public that MVC is working to be responsive to their needs.

Adjournment:

Since there were no further comments or business, a motion to adjourn was made by Board Member Kisch and seconded by Board Member Orcutt and unanimously adopted at 10:20 a.m.

**NEW JERSEY MOTOR VEHICLE COMMISSION
SPECIAL MEETING OF THE BOARD MEMBERS**

**Commission Headquarters, 9th Floor West Wing
225 East State Street, Trenton, New Jersey
10:00 a.m., Wednesday, November 2, 2016**

Meeting conducted by speakerphone with the public at location noted above

FINAL AGENDA

	<u>PAGE</u>
• 1 – CALL TO ORDER	7765
• 2 – OPEN PUBLIC MEETINGS ACT STATEMENT	7765
• 3 – APPROVAL OF AGENDA	7765
• 4 – APPROVAL OF ITEM 1611-01 – PROPOSED READOPTION WITH AMENDMENT – BOATING REGULATION	7767
• 5 – PUBLIC COMMENTS	7765
• 6 – ADJOURNMENT	7765

ITEM 1611-01: BOAT REGULATION

BENEFITS

The Motor Vehicle Security and Customer Service Act, P.L. 2003, c.13, as the enabling statute that created the New Jersey Motor Vehicle Commission (MVC), and as amended by P.L. 2007, c. 335 and by P. L. 2009, c.298; at sections 4 and 40 assigns to MVC the duty to promulgate regulations affecting various programs for the effective functioning of the Commission, including this proposed readoption with amendment of boating regulations that are jointly proposed and jointly adopted by the Boat Regulation Commission and the Motor Vehicle Commission.

PURPOSE

The effect of this item is to propose reauthorization of boating regulatory requirements prior to their expiration on January 4, 2017.

These requirements include registration of vessels, licensing of boat operators and titling of vessels, each of which falls within the purview of MVC. Further, within the purview of the Boat Regulation Commission, the requirements include where boats may be operated, speed limits, hours of operation, accident reporting rules, water events, etc.

ACTION

Approval of this item will authorize the Chairman to jointly file the proposed re adoption with amendment.

FISCAL IMPACTS

This regulatory proposal does not contain any new fees and it does not increase existing fees.

RESOLUTION

WHEREAS, The Motor Vehicle Security and Customer Service Act, P.L. 2003, c.13, as the enabling statute that created the New Jersey Motor Vehicle Commission, and as amended by P.L. 2007, c. 335 and by P. L. 2009, c.298, at sections 4 and 40 assigns to MVC the duty to promulgate regulations affecting various programs for the effective functioning of the Commission; and

WHEREAS, The Motor Vehicle Commission has developed a proposed readoption with amendment with the Boat Regulation Commission for the reauthorization and updating of boating regulations prior to their expiration on January 4, 2017; and

WHEREAS, The Motor Vehicle Commission is proposing changes to its portion of these regulations through this regulatory proposal;

NOW, THEREFORE, BE IT RESOLVED that the Chairman is authorized to jointly file at the Office of Administrative Law this proposed readoption with amendment concerning boating, in substantially the form as attached in Exhibit A.

LAW AND PUBLIC SAFETY

EXHIBIT A

BOAT REGULATION COMMISSION

MOTOR VEHICLE COMMISSION

Boating Regulations

Proposed Readoption with Amendments: N.J.A.C. 13:82

Proposed New Rule N.J.A.C. 13:82-1.21

Authorized By: _____ New Jersey Boat Regulation Commission, Edward Harrison, Jr., Acting Chair, with the approval of Christopher Porrino, Attorney General and _____, Motor Vehicle Commission Raymond P. Martinez, Chairman and Chief Administrator.

Authority: N.J.S.A. 12:7-34.40, 12:7-34.49 and 12:7A-28

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2016 - _____

Submit written comments N.J.A.C. 13:82-1.1 through 7.4 by _____ 2016 to:

Edward Harrison, Jr., Acting Chair, Boat Regulation Commission

c/o Marine Services Bureau

Division of State Police

PO Box 7068

West Trenton, NJ 08628-0068

LPPMSB@gw.njsp.org

Submit written comments on N.J.A.C. 13:82-8.1 through 9.1 by _____ to:

Kate Tasch, Deputy Administrator

Legal and Legislative Affairs

Motor Vehicle Commission

225 East State Street

PO Box 160

Trenton, NJ 08666-0160

Rulecomments@mvc.nj.gov

The agency proposal follows:

Summary

The Boat Regulation Commission ("BRC") and the Motor Vehicle Commission ("MVC" or "Commission") are proposing to readopt N.J.A.C. 13:82 with amendments. N.J.A.C. 13:82 contains rules concerning the inspection, operation, equipment, anchorage, racing and safety of vessels on the waters of the State and rules concerning the numbering and registration of vessels and licensing of operators. The rules in this chapter are scheduled to expire on January 4, 2017. Because this notice of readoption has been filed prior to January 4, 2017, the expiration date of the rules in chapter 82 is extended by 180 days, to July 3, 2017, pursuant to N.J.S.A. 52:14B-5.1c.

The BRC and the MVC have reviewed the existing rules and determined that the rules proposed for readoption, as amended, are necessary, reasonable and proper for the purpose for which they were originally promulgated. N.J.S.A. 12:7-34.49 requires that rules promulgated by the BRC be in conformity with regulations issued by the agency or agencies of the United States having jurisdiction with respect to power vessels upon waters of the State. The BRC has reviewed the rules for conformity with Federal boating statutes and rules promulgated by the United States Coast Guard and is proposing amendments where necessary.

The following is a summary of the existing rules of chapter 82 which the BRC and MVC propose to readopt with amendments.

Subchapter 1 contains general rules on equipment and operation. N.J.A.C. 13:82-1.1 sets forth that the chapter will govern the operation of vessels on waters of the State. N.J.A.C. 13:82-1.2 contains general references. N.J.A.C. 13:82-1.3 describes the equipment required on all vessels. N.J.A.C. 13:82-1.4 describes the requirement for personal flotation devices (PFDs) on vessels. N.J.A.C. 13:82-1.5 describes the authorized use of rotating lights. N.J.A.C. 13:82-1.6 describes the authorized use of sirens. N.J.A.C. 13:82-1.7 provides general rules on vessel speed and wakes. N.J.A.C. 13:82-1.1 through 13:82-1.7 are proposed for readoption without change.

N.J.A.C. 13:82-1.8 incorporates by reference the Federal Inland Navigation Rules and International Navigation Rules, commonly referred to as the "rules of the road." The Federal Inland Navigation Rules apply to all vessels on the waters of the State, except where the International Navigation Rules apply. Effective in 2010, the Federal Inland Navigation Rules found at 33 U.S.C. §§2001 through 2038 were repealed by the 2004 Coast Guard and Maritime Transportation Act (P.L. 108-293). The rules were moved from the United States Code to the Code of Federal Regulations, Title 33, Chapter I, Subchapter E. The BRC proposes to amend N.J.A.C. 13:82-1.8 to update the statutory and regulatory citations accordingly. International Navigation Rules are found at 33 U.S.C. §§1601 through 1608 and apply to vessels outside the International Regulations for Preventing Collisions at Sea (COLREGS) Demarcation line indicated on navigation charts.

N.J.A.C. 13:82-1.9 contains restrictions on anchoring near aids to navigation. N.J.A.C. 13:82-1.10 contains restrictions on operating or anchoring vessels in a manner that interferes

with other vessels. N.J.A.C. 13:82-1.11 prohibits traversing a marine event in a manner that would endanger participants. N.J.A.C. 13:82-1.12 reiterates the requirement that vessel operators obey orders of law enforcement personnel. N.J.A.C. 13:82-1.13 prohibits operators from allowing passengers to ride in dangerous positions. N.J.A.C. 13:82-1.14 concerns motors with altered identification numbers. N.J.A.C. 13:82-1.15 requires operators to wear the lanyard cutoff switch on vessels so equipped. N.J.A.C. 13:82-1.16 provides an exemption from operational regulations for vessels engaged in authorized marine events. N.J.A.C. 13:82-1.17 concerns reporting of vessels found under other than normal conditions. N.J.A.C. 13:82-1.9 through N.J.A.C. 13:82-1.17 are proposed for readoption without change.

N.J.A.C. 13:82-1.18 concerns floats and swim platforms that may be obstructions to navigation. The United States Coast Guard Navigation statute and rules cited by the rule have been relocated. The BRC therefore proposes to amend N.J.A.C. 13:82-1.18 to update the federal citations.

N.J.A.C. 13:82-1.19 prohibits operation of a vessel by a non-licensed operator in an area where a license is required. N.J.A.C. 13:82-1.20 governs permits for marine events. N.J.A.C. 13:82-1.9 and N.J.A.C. 13:82-1.20 are proposed for readoption without change.

Proposed new rule 13:82-1.21 outlines the BRC waiver process. The BRC periodically receives requests to waive certain BRC rules and determined it was necessary to establish a uniform waiver procedure. Persons desiring a rule waiver will be required to submit a formal request to the Commission on a form designated by the Superintendent of the State Police. Waiver requests must detail all the facts that support the necessity of the waiver and identify all persons or entities potentially affected. The BRC may grant a waiver from a specific provision of its rules if such a waiver is consistent with the interests of boating safety; is consistent with the

intent of, if not the letter of, its rules, and/or where strict application of the rule would create an unnecessary hardship that is contrary to the legislative intent of the underlying statutes or the public interest. Based upon the same factors, the BRC will also be able to waive application of any rule upon its own motion. Waiver requests must be submitted at least sixty days prior to a BRC meeting, and applicants may be required to attend a BRC meeting to provide testimony or documentation in support of their waiver request. If the BRC grants a waiver, the Superintendent of the State Police or his designee will issue a letter to the applicant detailing the terms of the waiver. The applicant will be required carry the letter while engaging in the waived activity.

Subchapter 2 contains one rule, N.J.A.C. 13:82-2.1, which concerns the reporting of boating accidents. The rule conforms to the Federal rules on boat accident reporting at 33 CFR 173.1 et seq., to the extent not inconsistent with the requirements of N.J.S.A. 12:7-34.46. The BRC proposes to amend N.J.A.C. 13:82-2.1(c) and (d) to reflect the language in the Federal reporting requirements.

Subchapter 3 contains rules on waterskiing, swimming and diving, and rules applicable to specific bodies of water in the State. The BRC proposes to amend N.J.A.C. 13:82-3.1, which outlines the permissible uses of waterskiing and safety protocols for those engaged in waterskiing, to add wake surfing as a permissible activity under the existing framework. The BRC also proposes to extend the maximum permissible length of a tow rope used for waterskiing from 75 to 85 feet, and sets the length of a wake surfing tow rope to a minimum of eight feet. Additionally, the BRC proposes to add a new subsection (i) to restrict the permissible type of propulsion units in vessels used for wake surfing.

With regard to bodies of water in the State, subchapter 3 sets forth specific rules for Beaver Dam Creek (N.J.A.C. 13:82-3.2), Deal Lake (N.J.A.C. 13:82-3.3), Lake Grinnell (N.J.A.C. 13:82-3.4), Indian Lake (N.J.A.C. 13:82-3.5), Paulinskill Lake (N.J.A.C. 13:82-3.6), Grover's Mill Pond (N.J.A.C. 13:82-3.7), Lake Mohawk (N.J.A.C. 13:82-3.8), South Branch of Kettle Creek (N.J.A.C. 13:82-3.9), Shrewsbury and Navesink Rivers and adjacent areas (N.J.A.C. 13:82-3.10), Lake Hopatcong (N.J.A.C. 13:82-3.11), Budd Lake (N.J.A.C. 13:82-3.12), Greenwood Lake (N.J.A.C. 13:82-3.13), Cranberry Lake (N.J.A.C. 13:82-3.14), Seven Presidents Park (N.J.A.C. 13:82-3.15), Upper Greenwood Lake (N.J.A.C. 13:82-3.16), the Round Valley Reservoir (N.J.A.C. 13:82-3.18), Patcong Creek (N.J.A.C. 13:82-3.19), Mullica River (N.J.A.C. 13:82-3.20), and Point Pleasant Canal (N.J.A.C. 13:82-3.21). With the exception of the Lake Hopatcong rules at N.J.A.C. 13:82-3.11 and the Lake Mohawk rules at N.J.A.C. 13:82-3.8, all of the rules in the above paragraph regarding specific bodies of water are proposed for readoption without change.

The Lake Mohawk Marine Country Club requested that the BRC propose amendments to rules pertaining to waterskiing and power vessel activities on Lake Mohawk in Sussex County. The BRC considered and approved the request, and proposes amendments to N.J.A.C. 13:82-3.8 as a result. Lake Mohawk is owned by the Lake Mohawk Country Club, and is used primarily by the members of the Lake Mohawk Country Club. There is no public access for the use of power vessels or the general use of the lake or its beaches. The BRC proposes to amend existing N.J.A.C. 13:82-3.8(b-i), which describes the permissible locations, maximum permissible speed, and operating hours for waterskiing and power vessels on Lake Mohawk. The BRC proposes to amend subsection (b) to restrict the permissible locations for waterskiing on the Lake, and

proposes to amend subsection (g) to restrict the permissible locations for power vessels towing ski or aquaplane riders.

The BRC also proposes to amend subsection (i) to remove hydrofoil skiing, motor operated ski skiing, parasail skiing and ski jumping and add wake surfing, motor-operated or motor-towed skis, parachute skiing, para-sailing, and ski jumping to the list of prohibited activities unless certain exceptions apply. Finally, the BRC proposes to amend subsections (c), (d), (e), and (h) to expand the permissible operating hours and reduce the maximum permissible speed for power vessels on Lake Mohawk.

At the request of the Lake Hopatcong Foundation, and after consultation with the Superintendent of Lake Hopatcong State Park, the BRC proposes to amend N.J.A.C. 13:82-3.11(k) to change the reference gauge for determining when an Extreme High Water level exists on Lake Hopatcong for the purpose of requiring all vessels to operate at slow speed/no wake. The current rule at subsection (k) refers to the gauge at the dam in Hopatcong State Park. This is a rudimentary gauge that must be viewed directly on site. The BRC proposes to amend the rule to refer to United States Geologic Survey (USGS) gauge #01455400. This gauge was installed by USGS and is funded and maintained by the New Jersey Department of Environmental Protection, Division of Watershed Management, in the gatehouse at the lake. It will provide a more accurate and convenient reference for law enforcement and the general public. The USGS maintains a website where the public can access current readings for the gauge at <http://waterdata.usgs.gov/nj/nwis/current/?type=flow>. The flood level reading of 9.5 will remain the same.

At the request of citizens who own property along the shores of Lake Hopatcong, particularly in Byram Cove, and after consultation with State Police Marine Services Bureau, the

BRC proposes a new subsection (l) in N.J.A.C. 13:82-3.11 to prohibit certain activities on the Lake between May 15 and September 15 of each year. These restrictions will alleviate crowding and dangerous behavior during the height of the boating season when the Lake is most crowded. Specifically, the BRC proposes to prohibit vessels from anchoring closer than 200 feet from the shoreline. The BRC also proposes to prohibit the tethering of a raft or tube more than 20 feet from an anchored vessel and prohibit more than ten vessels from anchoring together (commonly known as rafting). N.J.A.C. 13:82-3.17 provides general rules on swimming and diving and contains specific swimming and diving rules for Manasquan Inlet, Barnegat Inlet and Shark River Inlet and is proposed for readoption without change.

Subchapter 4 contains rules on watercraft noise control. All of the rules in subchapter 4 are proposed for readoption without change. N.J.A.C. 13:82-4.1 contains relevant definitions. N.J.A.C. 13:82-4.2 sets the maximum permitted decibel level for power vessels and prescribes the method of testing employed by the State Police for enforcement. N.J.A.C. 13:82-4.3 and 4.3 contain rules for the use of muffling systems. N.J.A.C. 13:82-4.5 prohibits any person from operating or tampering with any vessel without the owner's permission. N.J.A.C. 13:82-4.6 contains rules for the issuance of race test permits. The permit required by N.J.A.C. 13:82-4.6 is in addition to any permit required for a marine event under N.J.A.C. 13:82-1.20.

Subchapter 5 contains one rule on personal watercraft, N.J.A.C. 13:82-5.1. The rules formerly in this subchapter, with modifications, were codified by P.L. 1993, c. 299 (N.J.S.A. 12:7-62 et seq.). Therefore, personal watercraft operations are controlled by statute rather than rules. N.J.A.C. 13:82-5.1 provides that personal watercraft must conform to statutory requirements and is proposed for readoption without change.

Subchapter 6 contains rules on parasailing. N.J.A.C. 13:82-6.1 permits parasailing in New Jersey, except where prohibited. N.J.A.C. 13:82-6.2 defines "parasailing" and N.J.A.C. 13:82-6.2 sets forth the requirements for parasailing operation and equipment. The BRC proposes to readopt these rules without change.

Subchapter 7 contains rules for motor vehicles on ice-covered waters. N.J.A.C. 13:82-7.1 indicates that the rules in the subchapter shall govern the operation of vehicles on ice-covered waters. N.J.A.C. 13:82-7.2 contains definitions of all-terrain vehicles and snowmobiles permitted to operate on ice-covered waters. N.J.A.C. 13:82-7.3 prohibits operations by other vehicles and also requires operators to wear Coast Guard approved personal flotation devices. N.J.A.C. 13:82-7.4 sets forth that violations of the subchapter will be subject to penalties. The BRC proposes to readopt these rules without change.

Subchapter 8 contains rules on the registration of vessels and the licensing of operators. These rules are promulgated by the MVC. The subchapter describes the requirements for the numbering of vessels, the issuance and transfer of registration certificates, and the issuance of operator licenses. It also sets the fee for duplicate registration certificates. The MVC has reviewed the current rules and has determined that only N.J.A.C. 13:82-8.20, which incorporates the 6-Point ID verification requirements for issuance of digitized driver licenses, needs to be amended at this time.

The amendments to N.J.A.C. 13:82-8.20 are intended to make the boat operator license identification verification, proof of age and identity, and document expiration requirements equivalent to the non-REAL ID compliant driver license and non-driver identification card identification verification, proof of age and identity, and document expiration requirements. Documents being added to the acceptable documents list include certified copies of birth

certificates, probationary driver licenses with digitized images, and civil union certificates. This change reflects current Commission practice. Also, when a Social Security card is presented as a one point document, online Social Security Administration verification is now required. This change reflects current Commission practice. A Commission-issued driver or boat license renewal form is now acceptable proof of address; this reflects current Commission practice. Victims of domestic violence and other specified crimes and those the Chief Administrator determines to have good cause may show a mailing address on acceptable proof of address documents as a post office box, an address other than the applicant's address, or other contact point as acceptable proof of address. This change reflects current Commission practice.

Subchapter 9 contains rules establishing fees for issuance of certificates of ownership for vessels. The MVC has reviewed the current rules and has determined that no amendments are necessary.

Because the BRC and MVC are providing a 60-day comment period for this notice of proposal, the notice is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

The rules proposed for readoption with amendments and the proposed new rule will have a positive social impact by continuing the safe operation of vessels on the waters of the State and promoting the enjoyment and use of those waters by the public. Specifically, the proposed amendments to N.J.A.C. 13:82-3.1 the waterskiing rules will have a positive social impact because they will permit members of the general public to engage in the activity of wake surfing while also establishing uniform rules on its safe operation. The proposed amendments to the

Lake Hopatcong Rules at N.J.A.C. 13:82-3.11 will have a positive social impact because they will provide a means for the public to obtain more accurate information about water level conditions and will help to alleviate crowding and dangerous conditions on Lake Hopatcong. The proposed amendments to the Lake Mohawk rules at N.J.A.C. 13:82-3.8 will have a positive social impact because they will provide additional enforcement for the standards established by the Lake Mohawk Country Club and their members, which will enhance the safety of all persons utilizing the lake. Proposed new rule N.J.A.C. 13:82-1.21 will have a positive social impact because it provides a standardized procedure for members of the public to request a waiver of a BRC rule when it is in the interests of boating safety or where strict application of the BRC rule would create an unnecessary hardship that is contrary to the public interest. The proposed amendments to N.J.A.C. 13:82-8.20 will have a positive social impact because they increase the number and types of documents that are acceptable proof of age and identity and/or proof of address documents.

Economic Impact

The rules proposed for readoption with amendments and the proposed new rule will not have any significant economic impact on the public but they may have an indirect economic impact since violations of BRC rules subject the violator to the fines prescribed in N.J.S.A. 12:7-51. The rules imposing accident reporting and equipment requirements are based on State and Federal statutory and regulatory mandates. The fees for registration of vessels and licensing of operators remain the same as under the current rules. Fees for issuance of certificates of ownership, registration and numbering of vessels and licenses for operators provide general State revenues, except for deposits in the Boat Certification Fund, which are used exclusively for

administrative and enforcement costs associated with the Boat Ownership Certificate Act. There will be no fees associated with requesting a waiver pursuant to proposed new rule 13:82-1.21.

Federal Standards Statement

A Federal standards analysis is not necessary because the rules proposed for readoption and the proposed amendments and new rule do not exceed Federal boating standards promulgated by the United States Coast Guard to the extent that those standards are applicable to waters of the State. Proposed N.J.A.C. 13:82-1.3 incorporates by reference Federal standards on required equipment contained in Title 33 and Title 46 of the Code of Federal Regulations. Proposed N.J.A.C. 13:82-1.8 with amendments incorporates by reference Federal standards contained in the Inland Navigation Rules in 33 U.S.C. §§2071 through 2073 and 33 C.F.R. Parts 83 through 90, and the International Navigation Rules in 33 U.S.C. §§1601 through 1608 where applicable. Proposed N.J.A.C. 13:82-1.18 with amendments requires conformity with the Federal Inland Navigation Rule found at 33 C.F.R. § 83.30. Proposed N.J.A.C. 13:82-2.1 with amendments conforms to the Federal boat accident reporting requirements contained in 33 C.F.R. § 173.1 et seq., consistent with N.J.S.A. 12:7-34.46.

Jobs Impact

The rules proposed for readoption and the proposed amendments and new rule will not result in the generation or loss of any jobs in New Jersey.

Agriculture Industry Impact

The rules proposed for readoption and the proposed amendments and new rule will not have any impact on the agriculture industry in the State.

Regulatory Flexibility Analysis

The rules proposed for readoption and the proposed amendments and new rule apply to all vessels and operators in the State. Of the approximately 150,000 vessels registered in the State, it is estimated that approximately 5,000 are owned by small businesses, as that term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. These rules apply to all vessels and operators uniformly to provide for the safety and enjoyment of the public. Small businesses are required to register and title vessels and pay the associated fees to the same extent as larger businesses and private individuals. Costs are based on the size of the vessel. Operators are required to report boating accidents by statute. The rules proposed for readoption with amendments do not impose any additional requirements. Operational rules apply uniformly to all vessels and operators and do not impose reporting, recordkeeping or other compliance requirements on small businesses. N.J.A.C. 13:82-1.20 imposes compliance requirements on sponsors and organizers of marine events, some of whom may be small businesses. There are no costs or fees associated with the required permit and small businesses will not need professional services to comply.

Housing Affordability Impact

The rules proposed for readoption with amendments and the proposed new rule will have an insignificant impact on affordable housing in New Jersey and there is an extreme unlikelihood

that the rules would evoke a change in the average costs associated with housing because the rules concern equipment and operation of vessels on the waters of the State.

Smart Growth Development Impact Analysis

The rules proposed for readoption with amendments and the proposed new rule will have an insignificant impact on smart growth and there is an extreme unlikelihood that the rules would evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan in New Jersey because the rules concern equipment and operation of vessels on the waters of the State.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 13:82.

Full text of the proposed amendments follows: (additions indicated in boldface **thus**; deletions from the proposal indicated in brackets [thus]):

SUBCHAPTER 1. GENERAL PROVISIONS

13:82-1.8 Navigation Rules

All vessels navigating the waters of this State shall comply with the Inland Navigation Rules Act of 1980, [33 U.S.C. §§ 2001-2038]**33 U.S.C. §§ 2071-2073, and applicable regulations, 33 C.F.R. Parts 83 through 90**, except where the International Navigation Rules Act of 1977, 33 U.S.C. §§ 1601-1608 are applicable. Both acts, **and any regulation issued thereunder**, as may be amended or supplemented, are incorporated by reference.

13:82-1.18 Floats and swim platforms

No person shall place, anchor or construct or cause to be placed, anchored or constructed, any float or diving platform more than 25 feet from shore on any waters where power vessels are permitted without the written approval of the State Police. Permitted floats or platforms that remain in the water between sunset and sunrise shall be marked by warning lights as required by the United States Coast Guard **Inland** Navigation Rule 33 C.F.R. § 83.30, as may be amended or supplemented [International--Inland Annex V Rule 88.13. A copy of the Rule may be obtained from the State Police].

13:82-1.21 Waiver of the Boat Regulation Commission Rules

(a) Any person or entity desiring a waiver from the provisions of a rule or rules in Subchapters 1 through 7 of this Chapter shall submit a formal written request to the Commission in accordance with the provisions below. Any such request shall set forth in detail all facts that support the necessity of the requested relief and identify all persons or entities who might be affected if the relief were granted. Any waiver granted pursuant to this section shall only be valid for one year.

(b) The Commission may, within its discretion, grant a waiver from specific provisions of these rules if it determines:

- 1. That such a waiver is consistent with the interests of boating safety;**
- 2. That such a waiver is consistent with the intent of, if not the letter of, its rules;**
and/or
- 3. Where strict application of the rule would create an unnecessary hardship that is contrary to the legislative intent of the underlying statutes or the public interest.**

(c) The Commission may waive application of any rule in an individual circumstance on its own motion upon finding that such relief is warranted by the factors set forth in (b) above.

(d) All waiver requests shall be submitted to the Commission on a form designated by the Superintendent, at least sixty (60) days prior to a regularly scheduled public meeting of the Commission.

(e) Any person requesting a waiver, and/or any interested party, may be required to attend a regularly scheduled public Commission meeting to provide testimony and/or documentation in support of the request.

(f) All decisions on requests for waiver shall be made at a public meeting of the Commission. If the Commission grants a waiver, the Commission will notify the Superintendent and the Superintendent or his designee will issue a letter to the applicant, detailing the terms of the waiver. This letter shall be carried, at all times, by all participants or a designated supervisor, while engaging in the activity subject to waiver.

(g) The Commission shall not grant a waiver of its rules where doing so would be contrary to or inconsistent with an applicable statute.

(h) Any person, group, or organization found to be in violation of the rules contained within this Chapter, including the failure to produce the issued letter approving a waiver at the request of law enforcement personnel, shall be subject to the penalties contained within this Chapter.

SUBCHAPTER 2. REPORTING OF BOATING ACCIDENTS

13:82-2.1 Reporting of boating accidents

(a)-(b) (No change.)

(c) If as a result of an occurrence that involves a vessel or its equipment, a person dies; a person is injured and requires medical treatment beyond first aid; damage to the vessel and other property totals more than the Federal standard for filing an accident report as established pursuant to 33 CFR 173.55, or there is the complete loss of any vessel; or a person disappears from a vessel under circumstances that indicate death or injury, the operator or operators shall file a written report on forms furnished by the State Police within:

1. Forty-eight hours of the occurrence if a person dies within 24 hours of the occurrence, or if a person is injured and requires medical treatment beyond first aid **or disappears from a vessel**; or
2. (No Change.)

(d) The written report required in (c) above shall include the following information:

1. -.15 (No. Change.)
16. The type and [amount] **number** of each fire extinguisher used;
17. -.21 (No Change.)
22. The opinion of the person making the report as to the cause of the casualty, **including whether or not alcohol or drugs, or both, was a cause of or contributed to causing the casualty**;
23. [The make, model, type (open cabin, house or other), beam width at widest point, length, depth from transom to keel, horsepower, propulsion (outboard, inboard, inboard outdrive, sail, or other), fuel (gas, diesel or other), construction (wood, steel, aluminum, plastic, fiberglass, or other), and year built (model year), of the reporting operator's vessel] **Characteristics of the reporting operator's vessel, including:**
 - i. **Make;**

- ii. **Model;**
- iii. **Type: authorized terms are "air boat", "auxiliary sail", "cabin motorboat", "houseboat", "inflatable boat", "open motorboat", "paddlecraft", "personal watercraft", "pontoon boat", "rowboat", "sail only", or "other";**
- iv. **Beam width at widest point;**
- v. **Overall length of vessel;**
- vi. **Depth from transom to keel;**
- vii. **Horsepower;**
- viii. **Propulsion: authorized terms are "air thrust", "manual", "propeller", "sail", "water jet", or "other";**
- ix. **Fuel: authorized terms are "electric", "diesel", "gas", or "other";**
- x. **Engine drive type: authorized terms are "inboard", "outboard", "pod drive", "sterndrive", or "other";**
- xi. **Hull material: authorized terms are "aluminum", "fiberglass", "plastic", "rubber/vinyl/canvas", "steel", "wood", or "other"; and**
- xii. **Model year;**

24. - 26. (No Change.)

(e) (No Change.)

SUBCHAPTER 3. OPERATIONAL REGULATIONS

13:82-3.1 Waterskiing and Wake Surfing

(a) "Waterskiing" or "skiing" means a person being towed by a power vessel by means of a tow rope, tow line or training boom. "Wake surfing" means a person being temporarily towed by

a power vessel by means of a tow rope or tow line and releasing the tow line after using the vessel's wake as means of forward propulsion. For the purposes of this section, a wake surfer is considered being towed by the tow vessel after releasing the tow line or tow rope.

(b) All power vessels (including vessel, towline and skier) conducting waterskiing operations, including wake surfing, shall, while underway, keep at least 200 feet distant from any wharf, marina, dock, pier, bridge structure, abutment, or persons in the water, and 100 feet from other vessels, any shore, approved aid to navigation or mooring except specifically provided otherwise in these regulations.

(c) (No change.)

(d) **Waterskiing** [T]towlines shall be not less than 35 feet nor more than [75] 85 feet in length, except as specifically provided otherwise in these regulations. **Wake surfing tow lines shall be not less than eight feet in length.**

(e) **Waterskiing and wake surfing** [is]are permitted only between sunrise and sunset, except as specifically provided otherwise in these regulations.

(f) **Waterskiers and wake surfers** shall wear a United States Coast Guard approved [Type I, II, III or Type V Hybrid] **wearable** personal flotation device, except that a barefoot wetsuit may be worn during sanctioned competitions or shows and while training for such events, as long as there is a United States Coast Guard approved wearable personal flotation device on board the vessel for each skier.

(g) All ski boats shall display a signal pennant, which shall be orange in color and triangular in shape and not less than 12 inches on any dimension.

1. Said pennant shall be displayed at least four feet above the highest structure on the boat during each of the following activities:

- i. While pulling or retrieving a skier or wake surfer;
- ii. While a skier or wake surfer is in the water; or
- iii. While a tow line is in the water.

2. (No change.)

(h) (No change.)

(i) Vessels utilized for the purposes of wake surfing, as defined in (a) above, shall be direct drive, or v-drive type propulsion vessels, where the propeller does not extend aft of the transom of the tow vessel. Any vessel in which the means of propulsion extends rearward of the transom of the tow vessel, including but not limited to, outboard, inboard outboard, and jet drive, shall not be utilized for wake surfing.

13:82-3.8 Lake Mohawk, Sussex County

(a) (No change.)

(b) No waterskiing shall be permitted to the west of Manitou Island north and south of Manitou Bridge, **between Manitou Island and Echo Island, or in any other indicated slow speed/no wake area as defined in N.J.A.C. 13:82-1.7(c).**

(c) Power vessels shall not exceed [a speed of 10 miles per hour] **slow speed /no wake** from sunset to [8:00]7:30 A.M. anywhere on the lake.

(d) Power vessels shall not exceed [a speed of five miles per hour] **slow speed/** [" no wake"] in Tamarack Cove, Turtle Cove, Three Finger Cove, **the west side of Manitou Island**, or the South End Cove of the lake.

(e) Power vessels shall not exceed [five miles per hour] **slow speed/** [" no wake"] within 200 feet of any shore, wharf, pier, bridge structure, or abutment, dock, floating float of any kind, or

floating swimming or diving platform except for waterski practices, shows and exhibitions with a waiver granted by the Boat Regulation Commission.

(f) Power boats shall not exceed a speed of 35 miles per hour between [8:00]7:30 A.M. and sunset except for waterski practices, shows and exhibitions with a waiver granted by the Boat Regulation Commission.

(g) All power vessels **starting, landing, or towing** ski or aquaplane riders shall keep at least 200 feet distance from any other craft, **shore, wharf, pier, bridge structure or abutment, dock, floating or swimming platform or person in or under the water**, except for waterski practices, shows and exhibitions with a waiver granted by the Boat Regulation Commission.

(h) Waterskiing or aquaplane or towing of skiers or aquaplanes shall be permitted only during the hours between [9:00]7:30 A.M. and sunset.

(i) Barefoot skiing, **Wake surfing**, balloon skiing, kite [flying] skiing, [hydrofoil skiing, motor operated ski skiing, parasail skiing and ski jumping] **the use of motor-operated or motor-towed skis, parachute skiing and para-sailing and ski jumping** are prohibited except for waterski practices, shows and exhibitions with a waiver granted by the Boat Regulation Commission.

13:82-3.11 Lake Hopatcong, Sussex and Morris County

(a)-(j) (No change.)

(k) When the water level reaches the Extreme High Water Level (Elevation 924.20 feet) or when the **United States Geologic Survey gauge #01455400** [at the dam] in Hopatcong State Park reads 9.5, a "Slow Speed-No Wake" condition shall exist.

(l) From May 15 through September 15 of each calendar year, the following restrictions

apply:

1. No vessel (other than vessels operated by the State or Federal government or vessels engaged in repair or maintenance activity) shall anchor closer than 200 feet from the shoreline;
2. No raft or tube shall be tethered more than 20 feet from an anchored vessel; and
3. No more than 10 vessels shall tie up together (commonly called rafting).

SUBCHAPTER 8. REGISTRATION AND LICENSING

13:82-8.20 Operator license; proof of age and identity; expiration

(a) Each applicant for a boat operator license shall be required to furnish to the Commission, upon request, [furnish] proof of identity and date of birth and proof that the applicant's presence in the United States is authorized under Federal law. Such proof may be established by submission of the original or certified (by the issuing authority) copy of the primary and/or secondary documents which are listed in (b) below as follows:

1. - 5. (No change.)
6. The Commission [is required by law (N.J.S.A. 39:3-10) to] shall refuse to grant any permit or license if the Commission has reasonable cause to believe that a document is altered, false or otherwise invalid.
7. An applicant who is not a United States citizen must also submit proof of continued legal presence in the United States evidenced by a document listed in (b)1.ii below or by a document issued by the United States Department of Homeland Security or another Federal agency that establishes the applicant's lawful presence in the United States as of the time the proof is presented.

8. For persons who, for reasons beyond their control, are unable to present all necessary documents and must rely on alternate documents to establish identity or date of birth, Commission authorized personnel may review, approve or accept other documentation that proves the applicant's identity and date of birth, and that the applicant's presence in the United States is authorized under Federal law.

9. The identity of the applicant shall be deemed to be the name recorded on the document(s) submitted to the Commission pursuant to this section unless evidence of a different name is established by the submission of a civil marriage or civil union certificate, divorce decree or order of court.

[9.] 10. The Commission reserves the right to make changes to the list of acceptable documents found in (b) below. Such changes will be posted on the Motor Vehicle Commission's website, www.njmvc.gov, and will be available at all motor vehicle agencies.

(b) The following are acceptable documents:

1. Primary documents:

i. A United States citizen must submit at least one document from the following list:

<u>Document</u>	<u>Value</u>
United States or United States Territory birth certificate or certified copy with a State Office of Vital Statistics or equivalent agency in the individual's state of birth	4
United States Department of State birth certificate (Form FS-545 or DS-1350)	4
United States Department of State Consular Report of Birth Abroad (Form FS-240)	4
United States adoption papers	4
United States passport (current or expired less than three years)	4
New Jersey digitized driver or boat operator license (current or expired less than three years)	4

Valid New Jersey non-driver digitized identification card	4
Valid United States military photo identification card	4
Certificate of Naturalization (Form N-550, N-570 or N-578)	4
Certificate of Citizenship (Form N-560, N-561 or N-645)	4
Probationary license with digitized image	4

- ii. A person who is not a United States citizen must submit at least one document from the following list to establish lawful presence in the United States:

<u>Document</u>	<u>Value</u>
Current [Alien Registration] Permanent Resident Card (Form I-551) with expiration date and with [INS or (BCIS)] United States Citizenship and Immigration Services (USCIS) verification	4
Foreign passports with [INS or BCIS] USCIS verification and with valid record of arrival/departure (Form I-94) or valid I-551 stamp in passport	4
Refugee Travel Document (Form I-571)	4
United States Re-entry Permit (Form I-327)	4
Valid I-94 stamped "Refugee," "Parolee," "Asylee" or "Notice of Action" (Form I-797 approved petition) by [INS or BCIS] USCIS	4
Valid I-94 with attached photo stamped "Processed for I-551 ... " by [INS or BCIS] USCIS	4
Current photo employment authorization card (Form I-688B or I-766) (must be presented with a valid [social security] Social Security card)	3
Current Alien Registration Card (Form I-551) without expiration date and with [INS or BCIS] USCIS verification	2
Photo Temporary Resident Card (Form I-688)	2

2. Secondary documents:

i. United States citizens and persons who are not United States citizens must submit at least one document from the list below.

<u>Document</u>	<u>Value</u>
Valid New Jersey digitized driver or boat operator license (a secondary document for non-United States citizens only)	4
Probationary license with digitized image (a secondary document for non-United States citizens only)	4
Legal name change court order signed by a judge or court clerk	3
Civil marriage or civil union certificate or divorce decree	3
Current United States military dependent card	3
United States military photo retiree card	3
New Jersey firearm purchaser card	3
Valid United States government employee driver license	2
Valid United States government employee photo identification card	2
United States military discharge papers (DD214)	2
Federal Aviation Administration pilot license	2
United States school photo identification card with transcript or school records	2
United States college photo identification card with transcript	2
[Current New Jersey non-digitized photo driver license	1]
Current photo driver license of any other state of the United	

States including the District of Columbia	1
Property tax statement, bill or receipt issued by a New Jersey municipality	1
State professional license	1
New Jersey public assistance card with photo	1
Social Security card with Social Security Administration (SSA) verification	1
High school diploma or GED (general equivalency diploma)	1
Bank statement/record (cannot be submitted in conjunction with ATM card) 1	
ATM (automated teller machine) card with preprinted name and applicant's signature (cannot be submitted in conjunction with bank statement)	1
Current health insurance card or current prescription card	1
Current employee identification card accompanied by a printed pay stub	1
High school certificate (written test waiver)	1
Veteran's Administration universal access photo identification card	1

(c) Each applicant must present for inspection an acceptable proof of address document which may be, but is not limited to, the following:

1. A utility or credit card bill displaying applicant's name at current address, issued within last 90 days;
2. A property tax bill or receipt within last year;
3. Any letter or correspondence (including tax bills) received from [a] the Federal Internal Revenue Service or any state tax office within the past year;
4. A high school or college report card or transcript within past two years (must contain address);
5. An original lease or rental agreement with the name of the applicant listed as the lessee or renter;
6. First class mail from any government agency within six months, **including a Commission-issued driver or boat license renewal form;**
7. A checking or savings account statement (bank or credit union) **dated within the last 60 days;**
or
8. A certification, verifying the address of an applicant under 18 years of age who does not have his or her own proof of address verification, from a parent or guardian.

(d) Pursuant to N.J.S.A. 39:3-9b, victims of domestic violence and other specified crimes, and those the Chief Administrator determines to have good cause may show a mailing

address on documents in this list as a post office box, an address other than the applicant's address, or other contact point as acceptable proof of principal residence.

[(d)] (e) In addition to the documentation in (b) above, a parent or guardian must consent to the granting of a boat operator license for any applicant who is under 17 years of age.

[(e) For purposes of a name change only, a New Jersey boat operator license can be issued in the boater's married name if an acceptable original or certified marriage certificate (state or municipal seal must appear on document) is accompanied by another acceptable identification in the boater's former name.]

(f) [All] A boat operator [licenses] **license** [which are endorsements] **that is an endorsement on a basic driver license shall have the same expiration date as the basic driver license.**

(g) – (h) (No change.)