

**LAW AND PUBLIC SAFETY
BOAT REGULATION COMMISSION
MOTOR VEHICLE COMMISSION**

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

Boating Regulations

Proposed: August 17, 2009 at 41 N.J.R. 3033(a).

Adopted: November 4, 2009 by the New Jersey Boat Regulation Commission, Edward Harrison, Jr., Acting Chair, with the approval of Anne Milgram, Attorney General; and December 24, 2009 by the Motor Vehicle Commission, Stephen S. Scaturro, Vice Chair.

Filed: January 4, 2010 as R.2010 d.031, **without change**.

Authority: N.J.S.A. 12:7-34.40 and 49 and 12:7A-28.

Effective Dates: January 4, 2010, Readoption;

March 1, 2010, Amendments.

Expiration Date: January 4, 2015.

Summary of Public Comments and Agency Responses:

The Boat Regulation Commission received a comment from the Lake Hopatcong Commission.

1. COMMENT: The Lake Hopatcong Commission requests that the Boat Regulation Commission amend N.J.A.C. 13:82-3.11(a)4 to clarify the area designated as Woodport Cove by adding "northern most part of Woodport beyond no-wake buoy by North Island."

RESPONSE: The current wording of the paragraph has been in place since prior to 1999. There have been no reported instances of confusion over the area where waterskiing is prohibited as provided in the section. It is not clear whether the added language is intended to alter or would have the effect of altering the size of the area described. Therefore the Commission declines to make the amendment on adoption, but will refer the comment to the Marine Services Bureau of the State Police for further investigation.

2. COMMENT: The Lake Hopatcong Commission states that it is trying to address public concerns when navigating non-tidal waters during daylight. Bait barges and other platforms are not clearly visible due to location or sun glare. The Lake Hopatcong Commission recommends that language be added to N.J.A.C. 13:82-1.18 to make any float or diving platform more than 25 feet from shore more visible during the day by requiring reflective material or day markers be located on the float or platform.

RESPONSE: The Boat Regulation Commission is adopting the proposed amendment to N.J.A.C. 13:82-1.18 to remove the limitation "non-tidal," thereby making the section applicable to all waters of the State. The additional amendment requested by the Lake Hopatcong Commission was not part of the proposed readoption and would expand the scope of the rule and the burden on those affected by it. Because the request is so substantial as to require additional notice and an opportunity for public comment, the Commission cannot make such a change on adoption. The Commission will therefore study the request to determine whether a rule amendment is appropriate, and, if appropriate, whether it should be a rule of general application or limited to Lake Hopatcong.

Federal Standards Statement

A Federal standards analysis is not necessary because the readopted rules and the adopted amendments 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. 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. N.J.A.C. 13:82-1.8 incorporates by reference

Federal standards contained in the Inland Navigation Rules in 33 U.S.C. §§2001-2038 and the International Navigation Rules in 33 U.S.C. §§1601-1608 where applicable. N.J.A.C. 13:82-2.1 conforms to the Federal boat accident reporting requirements contained in 33 CFR 173.1 et seq. to the extent not inconsistent with N.J.S.A. 12:7-34.46.

Full text of the readopted rules can be found in the New Jersey Administrative Code at N.J.A.C. 13:82.

Full text of the adopted amendments follows:

SUBCHAPTER 1. GENERAL PROVISIONS

13:82-1.3 Equipment

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

(c) Failure to produce such equipment shall be a violation of this section.

13:82-1.10 Interference with other vessels

(a)-(c) (No change.)

13:82-1.11 Interference with marine events

No vessel shall move across the course or around the course of any marine event as defined in N.J.A.C. 13:82-1.20, so as to create a water condition, which shall unnecessarily endanger the life, limb or craft of those competing in the marine event.

13:82-1.12 Obeying orders

A person operating a vessel on the waters of this State shall stop or lay to when ordered to do so by a law enforcement officer.

13:82-1.13 Riders

(a) The operator of a vessel shall not allow any person to ride in any position that would endanger life or limb nor allow passengers or cargo in excess of the maximum capacity stated on the manufacturer's or U.S. Coast Guard capacity label.

1. This prohibition includes, but is not limited to, any position where the person may be in danger of falling overboard.

2. (No change.)

3. For purposes of this section, waterskiers as defined in N.J.A.C. 13:82-3.1 shall be included in the number of persons in the vessel.

13:82-1.16 Exclusion of marine events

The provisions of this subchapter shall not apply to any vessel or to any operator while actually competing in a marine event for which a permit has been issued under N.J.A.C. 13:82-1.20, except as may be otherwise provided in the permit.

13:82-1.17 Finding

(a) Any person finding, recovering or coming into possession of any vessel other than through normal purchase, loan, rental, charter or gift shall notify the State Police within 24 hours. Any person finding an unoccupied vessel on the waters of the State or under circumstances that indicate an emergency shall notify the State Police without delay by the quickest means available.

(b) (No change.)

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 Navigation Rules International--Inland Annex V Rule 88.13. A copy of the Rule may be obtained from the State Police.

SUBCHAPTER 3. OPERATIONAL REGULATIONS

13:82-3.1 Waterskiing

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

(b)-(h) (No change.)

13:82-3.3 Deal Lake, Monmouth County

(a)-(c) (No change.)

(d) Barefoot skiing, kite flying, parasailing and ski jumping are prohibited, except for specific exhibitions requiring a permit from the State of New Jersey.

13:82-3.10 Shrewsbury and Navesink Rivers and adjacent areas; tidal waters

(a) (No change.)

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

(a)-(i) (No change.)

(j) No vessel shall be operated at such a speed that shall cause 100 percent of the hull to come out of the water. Operation of the vessel in such a manner shall constitute, without further proof, careless operation. An exception to this requirement shall be allowed for operation during authorized marine events for which a permit has been issued by the State Police pursuant to N.J.A.C. 13:82-1.20 or the Division of Parks and Forestry, or with a valid race test permit issued by the State Police pursuant to N.J.A.C. 13:82-4.6.

(k) (No change.)

13:82-3.17 Diving and swimming

(a) General provisions with respect to diving and swimming are as follows:

1. Underwater diving with or without an underwater apparatus is permitted in all navigable waters in New Jersey unless otherwise prohibited in this section;

2. Any person while diving shall mark his or her position with a buoyed flag:

i. Such flag shall be displayed so that it is visible all around the horizon from a buoy, float, boat or other floating object; and

ii. Such flag shall be a minimum of 14 inches by 16 inches, shall be rigid to enhance visibility and shall be a red background with a white diagonal stripe running from one corner to the other;

3. No person shall operate a vessel within 50 feet of the buoyed flag;
4. No person shall display a flag at times other than when diving is in progress;
5. No person shall swim or dive in a narrow, confined or improved channel or in a marked fairway, under a bridge, or impede, obstruct or interfere with passage of watercraft therein; and
6. (No change.)

(b) Provisions for Manasquan Inlet are as follows:

1. Underwater diving shall be permitted in the Manasquan Inlet only within 50 feet from the stone jetties and bulkheads; and
2. (No change.)

(c) Provisions for Barnegat Inlet are as follows:

1. Except as provided in this subsection, no person or persons shall, while engaged in gogglefishing, spearfishing or skin diving, enter into any navigable channel or approach within 200 feet of any boat anchored or underway within the water adjacent to the land areas of the Borough of Barnegat Light;
2. No person shall dive in any of the waters of the Barnegat Inlet channel;
3. Skin and Scuba diving is permitted from the north and south jetties, but no person shall dive further than 25 feet from the rock jetty or bulkhead within the inlet;
4. No person shall dive within Barnegat Inlet between 8:00 A.M. and 5:00 P.M. on Saturdays and Sundays from June 1 to September 30;
5. A diver shall mark his or her position with a float and skin diver's flag as provided in (a) above;
6. Only "buddy diving" shall be permitted in the Barnegat Inlet;
7. Recreational diving is prohibited within 100 feet of the north monument; and
8. (No change.)

(d) Provisions for Shark River Inlet are as follows:

1. Underwater diving is permitted in the Shark River Inlet in that area which lies east of a line extending from the northwest end of A Street in Belmar to the southeast end of First Avenue in Avon;
2. Divers shall stay within 25 feet of the jetties and bulkheads in the area described;
3. A diver shall mark his or her position with a float and skin diver's flag as provided in (a) above;
4. No diver shall surface more than 15 feet from the buoyed flag except in an emergency; and
5. (No change.)

SUBCHAPTER 4. POWER VESSEL NOISE CONTROL

SUBCHAPTER 6. PARASAILING

13:82-6.1 Scope

Parasailing, as defined in N.J.A.C. 13:82-6.2, is permitted on the waters of the State, except where prohibited by this chapter or by local ordinance.

13:82-6.2 Definition of parasailing

"Parasailing" means a person towed by a power vessel by means of a tow rope where the rider ascends into the air by the towline extended from the vessel and remains suspended in the air as the vessel runs its course.

13:82-6.3 Operation

(a) (No change.)

(b) All commercial parasail operators are required to have the appropriate license for carrying passengers for hire issued by the United States Coast Guard.

(c)-(o) (No change.)