

9. The mailing of contact lenses pursuant to N.J.A.C. 13:33-4.1[.]; and

10. The performance and certification of vision screening pursuant to N.J.S.A. 39:3-10c.

(a)

**BOAT REGULATION COMMISSION
TRANSPORTATION
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 the 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 2016-201.

Submit written comments on N.J.A.C. 13:82-1 through 7 by February 3, 2017, 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; and

Submit written comments on N.J.A.C. 13:82-8 and 9 by February 3, 2017, 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 and a new rule. 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 were scheduled to expire on January 4, 2017. Because this notice of re-adoption has been filed with the Office of Administrative Law prior to January 4, 2017, the expiration date of Chapter 82 is extended by 180 days, to July 3, 2017, pursuant to N.J.S.A. 52:14B-5.1.c(2).

The BRC and the MVC have reviewed the existing rules and determined that the rules proposed for re-adoption, as amended, and the new rule 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 rules 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 and a new rule.

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 1.7 are proposed for re-adoption 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 1.17 are proposed for re-adoption 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 regulations 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. 13:82-1.19 and 1.20 are proposed for re-adoption without change.

Proposed new N.J.A.C. 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 60 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 or her designee will issue a letter to the applicant detailing the terms of the

waiver. The applicant will be required to 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 Part 173, 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. Specifically, N.J.A.C. 13:82-2.1(c)1 currently sets a 48-hour time-limit to file a report with State Police when a person dies or is injured and requires medical treatment beyond first aid. The BRC proposes to also require reporting within 48 hours when a person disappears from a vessel. This amendment mirrors current Federal requirements. See 33 CFR 173.55. N.J.A.C. 13:82-2.1(d) currently lists the information that must be included in a boating accident report. To conform with Federal regulations, the BRC proposes to specifically require the person making the report to include whether or not, in their opinion, alcohol or drugs, was a cause of the casualty. The BRC also proposes to update the list of characteristics of the reporting operator's vessel that should be included in the report. This amendment mirrors Federal regulations taking effect on January 1, 2017. See 33 CFR 173.57.

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 replace the specific types (Type I, II, III, or Type V Hybrid) of U.S. Coast Guard required life jackets with the word "wearable" to conform with updated U.S. Coast Guard standards and 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 listed above, 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) through (i), which describe 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 new N.J.A.C. 13:82-3.11(l) 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 10 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 4.4 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. 13:82-6.3 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 of 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 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.

Economic Impact

The rules proposed for readoption with amendments and a 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 N.J.A.C. 13:82-1.21.

Federal Standards Statement

A Federal standards analysis is not necessary because the rules proposed for readoption with amendments and a 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 CFR 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 CFR 83.30. Proposed N.J.A.C. 13:82-2.1 with amendments conforms to the Federal boat accident reporting requirements contained in 33 CFR Part 173, consistent with N.J.S.A. 12:7-34.46.

Jobs Impact

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

Agriculture Industry Impact

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

Regulatory Flexibility Analysis

The rules proposed for readoption with amendments and a 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 Analysis

The rules proposed for readoption with amendments and a new rule will have an insignificant impact on the affordability of 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 a 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 and new rule follows: (additions indicated in boldface **thus**; deletions 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] **2071-2073, and applicable regulations, 33 CFR 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, are incorporated herein by reference**, 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[s] International—Inland Annex V Rule 88.13. A copy of the Rule may be obtained from the State Police] 33 CFR 83.30, which is incorporated herein by reference, as may be amended or supplemented.**

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 N.J.A.C. 13:82-1 through 7 shall submit a formal written request to the Commission, in accordance with this section. 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 N.J.A.C. 13:82-1 through 7 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, N.J.A.C. 13:82-1 through 7; 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 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 or her 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 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) Pursuant to N.J.S.A. 12:7-34.46 and 33 [C.F.R. § 173.1 et seq.] **CFR Part 173**, when, as a result of an occurrence that involves a vessel

or its equipment, a person dies or disappears from a vessel the operator shall, without delay, by the quickest means available, notify the nearest State Police station of the following:

1.-4. (No change.)

(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;]

23. 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] **this chapter.**

(c) (No change.)

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

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

(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. (No change.)

2. (No change.)

(h) (No change.)

(i) Vessels utilized for the purposes of wake surfing 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—no wake—] **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—no wake—] **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 [at the dam] **#01455400** 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 that 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)Iii 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 the court.**

[9.] **10.** (No change in text.)

(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
...	
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

<u>Document</u>	<u>Value</u>
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
...	
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
...	
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
...	
Civil marriage or civil union certificate or divorce decree	3
...	
[Current New Jersey non-digitized photo driver license	1]
...	
Social Security card with Social Security Administration (SSA) verification	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.-2. (No change.)
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.-5. (No change.)
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. (No change.)

(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) (No change in text.)

(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 license[s which are] that is an endorsement[s] on a basic driver license shall have the same expiration date as the basic driver license.

(g)-(h) (No change.)

PUBLIC UTILITIES

(a)

BOARD OF PUBLIC UTILITIES

Government Energy Aggregation Programs, Energy Anti-Slamming, and Third-Party Suppliers

Proposed Amendments: N.J.A.C. 14:4-2.6, 6.2 through 6.6, 6.10, 7.4, and 7.6

Proposed New Rules: N.J.A.C. 14:4-7.6A and 7.10A

Authorized By: New Jersey Board of Public Utilities: Richard S. Mroz, President, Joseph L. Fiordaliso, Mary-Anna Holden, Dianne Solomon, Upendra J. Chivukula, Commissioners.

Authority: N.J.S.A. 48:3-51 and 48:3-85 et seq.

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

BPU Docket Number: EX14111343.

Proposal Number: PRN 2016-198.

Comments may be submitted through February 3, 2017, by e-mail in Microsoft Word format, or in a format that can be easily converted to Word, to: rule.comments@bpu.nj.gov or on paper to:

Irene Kim Asbury, Secretary
 Board of Public Utilities
 ATTN: BPU Docket Number EX14111343
 44 S. Clinton Ave., 9th Floor
 PO Box 350
 Trenton, NJ 08625-0350

The agency proposal follows:

Summary

The New Jersey Board of Public Utilities (Board) is proposing amendments and new rules to N.J.A.C. 14:4, concerning energy anti-slamming, government energy aggregation programs, and retail choice consumer protection.

Below is a section-by-section description of the proposed amendments and new rules.

Subchapter 2. Energy Anti-Slamming

The Board is proposing to add new subsections (c) and (d) to N.J.A.C. 14:4-2.6, which details the notice requirements that a local distribution company (LDC) must provide to a customer of a change. The proposed amendments require that the notice must notify the customer of their choice of supplier and, for a residential customer, that the customer will have a minimum of seven calendar days from the date of the confirmation notice to contact his or her LDC and rescind the third-party supplier (TPS) selection. The proposed amendments also contain requirements for an LDC, when it receives a change order from a TPS to switch the customer's energy supplier as a part of a government energy aggregation program (GEA). In addition to complying with the notification requirements of N.J.A.C. 14:4-2.6(a) and (b), the proposed amendments require that the customer be specifically notified that the switch is being made pursuant to a GEA.

The proposed amendments to recodified subsection (e) clarify that the LDC is required to execute all requests from customers to switch from a TPS to the LDC and sets forth timeframe requirements for a switch for electric and gas customers if the utility has received an electronic enrollment from an electric or gas supplier or a request directly from the customer. The proposed amendments require an electric public utility to switch a customer's electric supplier on the current month's scheduled meter reading date when the electric public utility has received the request at least 13 days prior to the current month's scheduled meter reading date. Additionally, gas public utilities would be required to switch a firm customer's gas supplier on the current month's scheduled meter reading date when the gas public utility has received the request