Official Compilation of Codes, Rules and Regulations of the State of New York (NYCRR)

User's Guide

INTRODUCTION

The Legislature is responsible for enacting the general laws in New York State. In doing so, the Legislature often delegates "rule making powers" to the state's administrative departments and agencies. These agencies are then empowered to develop and enforce the rules and regulations they find necessary to implement the broad policies adopted by the Legislature. An outline of this process can be found below, in the Rule Making in New York section.

The full text of agency rules is published in the *Official Compilation of Codes, Rules and Regulations of the State of New York* (NYCRR), prepared by the Department of State and published by West Group. The NYCRR contains the nonadministrative rules and regulations of over 100 government agencies, departments, commissions, authorities, and interstate commissions, as well as the full text of the Governor's Executive Orders.

A full set of the NYCRR consists of 83 loose-leaf volumes plus two general index volumes. The NYCRR is divided into 22 numbered Titles, cited as 1 NYCRR, 2 NYCRR, etc. Titles represent each of the major state agencies as well as separate titles for Miscellaneous agencies and the Judiciary. Individual volumes within multi-volume titles are designated by a volume identifier, such as A, A1, B, etc. The Titles making up the NYCRR are listed below:

Title 1, Agriculture and Markets (2 volumes)

Title 2, Audit and Control (Office of the State Comptroller)

Title 3, Banking

Title 4, Civil Service

Title 5, Economic Development

Title 6, Environmental Conservation (13 volumes)

Title 7, Correctional Services

Title 8, Education (3 volumes)

Title 9, Executive (12 volumes, with Subtitles for each Executive office, division, etc.)

Title 10, Health (7 volumes)

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Title 11, Insurance (3 volumes)
Title 12, Labor (5 volumes)
Title 13, Law (Office of the Attorney General)
Title 14, Mental Hygiene (3 volumes)
Title 15, Motor Vehicles (7 volumes)
Title 16, Public Service (3 volumes)
Title 17, Transportation (3 volumes)
Title 18, Department of Family Assistance (4 volumes)
Title 19, State (Office of the Secretary of State)
Title 20, Taxation and Finance (4 volumes)
Title 21, Miscellaneous (3 volumes)
Title 22, Judiciary (4 volumes)
Master Index (2 volumes)

Design of Individual Volumes

Colored tabs denote and separate the major sections within volumes. At a minimum, this includes the Table of Current Pages; Tables of Contents; body of NYCRR text in the volume; and any additional material that may be relevant, such as Appendixes and Annotations.

The Table of Current Pages helps users establish the currentness of any page and is discussed further below (see Updating Volumes). Immediately following the Table of Current Pages is a Comprehensive Table of Contents that lists the major contents in every volume within a multi-volume Title, followed by a more specific Table of Contents for the volume itself. One needs only to look at the Comprehensive Table of Contents in any Executive volume, for instance, to see the major breakdown of contents in all 12 volumes in Title 9 of the NYCRR.

Many volumes contain Annotations of relevant case notes on how courts have ruled on particular issues arising under specific sections of the NYCRR. The Annotations also contain research references to other source material such as American Jurisprudence 2d, New York Jurisprudence 2d, American Law Reports and McKinney's Consolidated Laws of New York Annotated.

A full NYCRR set also includes a comprehensive two-volume **Master Index**. The Master Index provides a direct route to the useful synonyms and concepts that do not expressly appear in the regulatory text. Entries appear in a readable, easy-to-skim, two-column format.

Updating Volumes

The print version of the NYCRR is updated through an on-going supplementation service. The goal is to maintain the currentness of the NYCRR within one month of an amendment and to provide semimonthly supplements to subscribers. Print supplementation contains two major features for each volume being updated: Filing Instructions and an amended Table of Current Pages.

Filing Instructions tell you which "old" pages to remove from the existing volume, which revised pages to insert in their place and where to insert new pages. The Filing Instructions also make a handy check off sheet to help the filer keep track of what has been removed and inserted. Once you have removed all the old pages and inserted the revised and new pages, you can discard the

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Filing Instructions if you wish, or you may insert the Filing Instructions at the beginning of each volume for an "at-a-glance" look at when the volume was last updated. The dated pages removed from the NYCRR are known as "take-outs" and can be a valuable research tool (see ***Archiving Regulations***, below).

The **Table of Current Pages** is exactly that: a page-by-page list of current page numbers for a volume, along with the date of supplementation. Each volume contains a Table of Current Pages and each time a volume is affected by a supplement, you will receive a new Table of Current Pages for that volume. Conversely, if a volume is not affected by supplement material, you will not receive a new Table of Current Pages for that volume.

The Table of Current Pages lists in consecutive order all current pages for a volume with the supplement date that should appear at the bottom of each corresponding NYCRR page. For example:

1-2	01-01-95
3-4	6-9/95
4.1-4.2	6-9/95
5-6	01-01-95

The numbers in the left column are the page numbers and the numbers to the right are the supplement dates that correspond to the date at the bottom of the relevant NYCRR page. You can use this information for two things. First, to verify that supplement material has been properly filed; and second, to confirm that the page you are using is the most recent replacement page available.

In the above illustration, pages 3-4 will have the date 6-9/95 at the bottom of the page, while pages 1-2 and 5-6 will be dated 01-01-95. Insertion of new and amended text frequently makes it necessary to add decimal point pages to a volume. In our example, new pages 4.1-4.2 were inserted with the June-September (6-9) 1995 supplement.

The purpose of the Table of Current Pages is to provide readers with the assurance that their volumes are complete. If something does not "read right" as you move from page to page, first check the Table of Current Pages to verify that a page is not missing or misfiled. In our example, readers could not tell from page numbers alone, for instance if the new decimal pages were missing—the pages themselves would appear to run consecutively from page 1 to page 6.

Generally, all rules filed within a certain time frame are published together as a supplement. The date at the bottom of a page refers to that supplement date i.e., the last day of the supplement period in which material was filed at the Department of State. When NYCRR pages are reissued for technical reasons, the supplement date may not correspond to the filing date. For the actual filing and effective dates of the rule itself, you must refer to the Historical Note.

An **Historical Note** follows every section in the NYCRR, to tell the reader when the section was filed with the Department of State; the rule's effective date; and what subdivisions were added, amended or repealed.

Some readers look at the supplement date at the bottom of the page and deduce that the text on a page is valid at least as of that date. However, agencies may adopt rules to be effective in the future; i.e., adopt a rule on June 1, 1995 to be effective January 1, 1996. When that happens, the rule will be published with others adopted on or about June 1, 1995 and carry the related

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supplement date at the bottom of the page. Only by reading the Historical Note will a reader be able to determine when a rule became—or becomes—effective.

If you decide to archive rules as described below, the Historical Notes will become a valuable source of information, helping you locate the text of rules prior to amendment.

Archiving Regulations

Although many individuals and businesses only need to keep abreast of current rules and regulations, sometimes it is important to know what rules you or your clients had to be in compliance with in the past. For archival purposes, the Department of State recommends that certain users retain outdated NYCRR pages when removing them in accordance with Filing Instructions. These pages, known as take-outs, will provide you with the history of what the newly amended rules required from the time they were previously adopted until amended.

For instance, if someone is injured while exiting a building, current Fire Prevention and Building Code (Title 9B) regulations may not be relevant in determining responsibility for steps, handrails, etc. Indeed, the text of the pertinent Building Code when the building was constructed or last renovated might be the more appropriate source to determine Code compliance issues. Unless you retain take-outs, you will not have this information readily available.

Another reason to save take-outs is in the case of emergency rules. In New York, all emergency rules filed with the Department of State are required to be published in the NYCRR. When this occurs, the Filing Instructions indicate that the existing rule should be removed and the new, emergency rule pages should be inserted. A first emergency may be valid for no more than 90 days. If not readopted (for 60-day periods), the rule reverts back to its prior language. When an emergency lapses, the Department of State will make the necessary adjustments in the next NYCRR supplement whenever feasible.

In the past, the Department of State's process of identifying lapsed emergencies involved a manual search. Many, if not most, lapsed emergencies remained in the NYCRR for months. West Group has provided the Department with the means to identify and remove lapsed emergencies in a more timely fashion in the future. Many users may still find it useful, however, to retain the previous version of an emergency rule until such time as it is permanently amended.

To save take-outs, you may wish to purchase an extra binder and create dividers on which to write the supplement date for which the pages were removed. For example, pages removed when filing the 6-9/95 supplement would be labeled as such. From the Historical Note of the current rule, you can determine the date of the latest amendment and locate the prior rule in your take-out book. For instance, if the Historical Note indicates a section was amended in July 1995, you can find the previous version of the rule in your take-out book under the section labeled 6-9/95—which references all filings between June and September 1995.

Rule Making in New York

Before a rule is published in the NYCRR, submitting agencies are required to file specific documentation with the Department of State and follow a prescribed set of procedures. This is known as the **Rule Making Process**. The weekly *New York State Register*, published by the Department of State, plays a central role

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in this process and ensures that the public has an opportunity to comment on and participate in the adoption of agency rules.

Each week, the Rule Making section of the *State Register* contains notices of Proposed Rule Makings of new rules and changes to existing rules, as well as notices of Adoption or Withdrawal of formerly proposed rule making changes. Included in each notice is the full text of the proposed rule, if less than 2,000 words; the time, date and location of any public hearing(s), if required, for proposed rule makings; and the name and address of the agency person to whom comments can be addressed. When lengthy rule makings are proposed, the *Register* will carry a summary of the proposed action and agency contact information is provided for those individuals who want to obtain a copy of the full text proposal.

In many cases, whether required or not, public hearings will be held around the state to better provide people with an opportunity to argue for or against a proposal. If no hearing is scheduled, or if you cannot attend a hearing, both written and oral comments must still be taken into consideration by the agency before they take action to adopt the proposed rule. Because it is important for citizens to have this opportunity to comment, the Legislature has provided that agencies *must accept public comment for at least 45 days* after the proposal is first published in the *Register*. Agencies often allow more than 45 days for comment and hold public hearings although they may not be required to do so.

The State Administrative Procedure Act (SAPA) stipulates the content and time frames for the various rule making notices. In addition to the minimum comment period, for instance, most proposed rule makings automatically expire 185 days after publication of the original notice unless a separate notice of continuation is submitted to the Department of State. Only one continuation may be filed for any proposal and is valid for 180 days—limiting agency consideration to adopt a proposal to about one year. If a proposal expires without any agency action to adopt it, the Department of State publishes a notice of Expiration in the *Register*.

After initial publication of a proposal and receipt of public comment, the agency may either adopt, revise or withdraw the proposal. If adopted, the agency must file the full text of the rule with the Department of State for publication in the NYCRR. At the same time, a notice of adoption is published in the *Register*, indicating that the proposal has, in fact, been adopted. If the final rule differs substantially from the proposed rule, the agency must first publish a notice of Revised Rule Making and accept public comment on the revision for at least another 30 days before final adoption. If a proposal is withdrawn, the agency cannot adopt the same or a similar proposal without first providing the public with another opportunity to comment; in effect, without publishing a new notice of Proposed Rule Making in the *State Register*.

To help readers track rule making activities, the weekly *Register* contains an **Action Pending Index** that lists all proposed rules under consideration. This list is organized by agency and includes a unique ID number for each proposal. As explained in the *Register*, ID numbers are a simple alpha-numeric code that references the issue number and year of the *Register* in which the original proposal and any continuations or revised rule makings were published. When a final action is taken to adopt or withdraw a proposal, or a proposal expires, the reference is removed from the Action Pending Index.

The **Quarterly Index** is a cumulative, calendar year list of all rule making activities. Unlike the Action Pending Index, the Quarterly Index includes refer-

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ences to adoptions, withdrawals and expirations. Printed as a supplement to the *Register* four times a year, the Quarterly Index uses the same unique ID number system to help readers locate the text of the rule as proposed, revised and adopted. By using these two indexes, readers can quickly and easily learn the status of any proposed or newly adopted rule.

An annual subscription to the *State Register* includes weekly issues for one full year and the Quarterly Index supplements. Among other items, the Register includes the state's financial statements, stock security notices, the full text of the Governor's Executive Orders, summaries of Opinions of the Attorney General, a calendar of legislative public hearings, notices from New York Courts and notices of the availability of funding from state agencies. The State Register is available to the public for viewing at no charge at every county clerk's office and at many city, town and village clerk's offices, as well as in 225 libraries across the state.

The price of an annual first-class mail subscription is $80; for second class (periodical) mail, the price is $40. To order a subscription to the State Register, please send a check or money order, made payable to NYS Department of State, to:

NYS Department of State
Office of Information Services
41 State Street
Albany, NY 12231

Please be sure to indicate the name and address of the person to receive the *Register*, if different from, or not preprinted, on your payment. Subscriptions start within four to five weeks and renewal reminders are sent to subscribers at least two months prior to subscription expiration, each year. The Office of Information Services may be reached at (518)474-6785.

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Marine and Recreational Vehicles

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SUBCHAPTER A

*Motorboats**

PART	
444	Registration of Vessels and Reports of Accidents
445	Navigation of Vessels on the Navigable Waters of New York State
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PART 444

REGISTRATION OF VESSELS AND REPORTS OF ACCIDENTS

(Statutory authority: Navigation Law, §§ 30, 71, 71-b; Parks, Recreation and Historic Preservation Law, § 3.09; L. 1972, ch. 140, § 710)

Sec.
444.1 Definitions
444.2 Accident reporting and assistance

Historical Note

Part (§§ 444.1-444.15) added by renum. Part 350, Title 6, Sept. 1971.

§ 444.1 Definitions.

As used in this Part:

(a) *Person* includes an individual, society, club, firm, partnership, corporation, or association of persons, and the singular number shall include the plural.

(b) *Owner* means the person who claims lawful possession of a vessel by virtue of legal title or equitable interest therein which entitles him to such possession.

(c) *Vessel* includes every description of watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation on water.

(d) *Public vessel* shall mean and include every vessel which is propelled in whole or in part by mechanical power and is used or operated for commercial purposes on the navigable waters of the State, that is either carrying passengers, carrying freight, towing, or for any other use; for which a compensation is received either directly or where provided as an accommodation, advantage, facility or privilege at any place of public accommodation, resort or amusement.

(e) *Pleasure vessel* includes every vessel not within the classification of public vessel.

*Designated agents for enforcement of the Navigation Law and regulations promulgated thereunder are set forth in Appendix I-1, *infra*.

(f) *Accident* shall mean any casualty involving a vessel or vessels, including but not limited to collision, capsizing, foundering, fire, explosion, disappearance of a vessel other than by theft, or disappearance of any person from on board under circumstances which indicate the possibility of death or injury.

(g) *Reportable accident* shall mean any accident involving loss of life, personal injury, any property damage in excess of $100, disappearance of a vessel other than by theft, or disappearance of any person from on board under circumstances which indicate the possibility of death or injury.

Historical Note

Sec. added by renum. 350.1, Title 6, Sept. 1971; amds. filed: Nov. 21, 1972; Dec. 23, 1991 eff. Jan. 8, 1992. Repealed (h)-(k).

§ 444.2 Accident reporting and assistance.

(a) It shall be the duty of the operator of a vessel involved in any accident as defined herein, so far as he can do so without serious danger to his own vessel, crew and passengers, to render to other persons affected by said accident such assistance as may be practicable and as may be necessary in order to save them from or minimize any danger caused by the occurrence. The operator shall exhibit his certificate of registration and give his name, address, and identification of his vessel in writing to any person injured and to the owner of any vessel or property damaged. In the event the person injured or damaged cannot be located at the place where the accident occurred, then said information and a description of the accident shall be reported by the operator of the vessel within 24 hours to the nearest police or local judicial officer.

(b) The operator of every vessel involved in any reportable accident as defined herein shall, within seven days, file a complete written report and description of the accident as provided below.

(c) Accidents shall be reported on forms provided by the Office of Parks, Recreation and Historic Preservation for this purpose. Forms may be obtained at any police station or regional office of the Office of Parks, Recreation and Historic Preservation.

(d) Accident reports must be filed in duplicate with the Office of Parks, Recreation and Historic Preservation, Bureau of Marine and Recreational Vehicles, Agency Building 1, Empire State Plaza, Albany, NY 12238 and another copy shall be filed with the police agency in whose jurisdiction the accident occurred.

(e) Every written accident report shall contain the following information:

(1) numbers and/or names of vessels involved;

(2) locality where accident occurred;

(3) time and date when accident occurred;

(4) name, address, age and boat-operating experience of operator of reporting vessel;

(5) weather and sea condition at time of accident;

(6) names and addresses of operators of other vessels involved;

(7) names and addresses of owners of vessels or property involved;

(8) names and addresses of any person or persons injured or killed;

(9) nature and extent of injury to any person or persons;

(10) description of damage to property (including vessels) and estimated cost of repairs;

(11) description of accident (including opinions as to causes);

(12) length, propulsion, horsepower, fuel and construction of reporting vessel;

(13) names and addresses of known witnesses;

(14) signature of person reporting.

(f) In order to comply with the accident reporting requirements of the Navigation Law, operators of vessel liveries shall keep or cause to be kept a record of the date and time a boat is

rented, the registration number of the boat, and the name and address of the individual renting the boat. The record shall be kept for a period of six months and shall be available for inspection at reasonable times upon request by the Bureau of Marine and Recreational Vehicles or a representative thereof.

Historical Note

Sec. added by renum. 350.2, Title 6, Sept. 1971; repealed, new added by renum. 444.18, filed Dec. 23, 1991 eff. Jan. 8, 1992.

§ 444.3-444.10

Historical Note

Secs. added by renum. 350.3-350.10, Title 6, Sept. 1971; repealed filed Dec. 23, 1991 eff. Jan. 8, 1992.

§ 444.11

Historical Note

Sec. added by renum. 350.11, Title 6, Sept. 1971; repealed, new filed Nov. 21, 1972; repealed, filed Dec. 23, 1991 eff. Jan. 8, 1992.

§ 444.12

Historical Note

Sec. added by renum. 350.12, Title 6, Sept. 1971; repealed, filed Dec. 23, 1991 eff. Jan. 8, 1992.

§ 444.13-444.14

Historical Note

Secs. added by renum. 350.13-350.14, Title 6, Sept. 1971; repealed, new filed Nov. 21, 1972; repealed, filed Dec. 23, 1991 eff. Jan. 8, 1992.

§ 444.15

Historical Note

Sec. added by renum. 350.15, Title 6, filed Sept. 1971; renum. 444.18, new filed Nov. 21, 1972; repealed, filed Dec. 23, 1991 eff. Jan. 8, 1992.

§ 444.16-444.17

Historical Note

Secs. filed Nov. 21, 1972; repealed, filed Dec. 23, 1991 eff. Jan. 8, 1992.

§ 444.18

Historical Note

Sec. added by renum. 444.15, filed Nov. 21, 1972; amds. filed: Jan. 4, 1979; May 7, 1982; renum. 444.2, filed Dec. 23, 1991 eff. Jan. 8, 1992.

PART 445

NAVIGATION OF VESSELS ON THE NAVIGABLE WATERS OF NEW YORK STATE

(Statutory authority: Navigation Law, § 41)

Sec.
445.0 General
445.1 Signals
445.2 Situations
445.3 Aid in distress
445.4 Departure from rules
445.5 Application

Historical Note

Part (§§445.0-445.5) added by renum. Part 351 (§§ 351.0-351.5), Title 6, filed September 1971.

§ 445.0 General.

The following rules shall be observed by all mechanically propelled vessels on the navigable waters of the State.

Historical Note

Sec. added by renum. 351.0, Title 6, filed September 1971.

§ 445.1 Signals.

The whistle signals provided in the rules in this Part shall be sounded on an efficient whistle.

(a) A short blast of the whistle shall mean a blast of about one second's duration.

(b) A prolonged blast of the whistle shall mean a blast of from four to six seconds' duration.

(c) One short blast of the whistle signifies intention to direct course to own starboard, except when two mechanically propelled vessels are approaching each other at right angles or obliquely, when it signifies intention of a mechanically propelled vessel which is to starboard of the other to hold course and speed.

(d) Two short blasts of the whistle signify intention to direct course to own port.

(e) Three short blasts of the whistle shall mean, "My engines are going at full speed astern". When vessels are in sight of one another a mechanically propelled vessel under way whose engines are going at full speed astern shall indicate that fact by three short blasts on the whistle.

(f) *Danger signal.* If, when mechanically propelled vessels are approaching each other, either vessel fails to understand the course or intention of the other, from any cause, the vessel so in doubt shall immediately signify the same by giving several short and rapid blasts of the whistle, not less than five.

(g) *Cross signals.* Mechanically propelled vessels are forbidden to use what has become technically known among pilots as "cross signals", that is, answering one whistle with two, and answering two whistles with one.

(h) *Vessels passing each other.* (1) The signals for passing, by blowing of the whistle, shall be given an answer by masters, in compliance with the rules in this Part, not only when meeting "head and head", or nearly so, but at all times when the mechanically propelled vessels are in sight of each other, when passing or meeting at a distance within half a mile of each other, and whether passing to the starboard or port.

(2) The whistle signals provided in the rules of this Part for mechanically operated vessels meeting, passing or overtaking are never to be used, except when mechanically propelled vessels are in sight of each other, and the course and position of each can be determined in the daytime by a sight of the vessel itself, or by night by seeing its signal lights. In fog, mist, falling

snow, or heavy rainstorms, when vessels cannot so see each other, fog signals only must be given.

(i) *Fog signals.* In fog, mist, falling snow, or heavy rainstorms, whether by day or night, signals shall be given as follows:

(1) a mechanically propelled vessel under way, except when towing other vessels or being towed, shall sound, at intervals of not more than one minute, on the whistle, a prolonged blast;

(2) a mechanically propelled vessel when towing other vessels shall, sound, at intervals of not more than one minute, on the whistle, three blasts in succession, namely, one prolonged blast followed by two short blasts;

(3) a vessel towed may give, at intervals of not more than one minute, on the fog horn, a signal of three blasts in succession, namely, one prolonged blast followed by two short blasts, and she shall not give any other;

(4) a vessel when at anchor shall, at intervals of not more than one minute, ring the bell rapidly or sound other warning signals for about five seconds.

(j) *Moderate speed in fog.* (1) Every mechanically propelled vessel shall, in a fog, mist, falling snow, or heavy rainstorms, go at a moderate speed, having careful regard to the existing circumstances and conditions.

(2) A mechanically propelled vessel hearing, apparently forward of her beam, the fog signal of a vessel the position of which is not ascertained shall, so far as the circumstances of the case admit, stop her engines and then navigate with caution until danger of collision is over.

(k) *Distress signals.* When a vessel is in distress and requires assistance from other vessels or from the shore the following shall be the signal to be used: a continuous sounding of the whistle or any other sound producing apparatus.

Historical Note

Sec. added by renum. 351.1, Title 6, September, 1971.

§ 445.2 Situations.

(a) *Vessels approaching each other head and head, end on.* (1) When mechanically propelled vessels are approaching each other head and head, that is, end on, or nearly so, it shall be the duty of each to pass on the port side of the other; and either vessel shall give, as a signal of her intention one short and distinct blast of her whistle, which the other vessel shall answer promptly by a similar blast of her whistle, and thereupon such vessels shall pass on the port side of each other. But if the courses of such vessels are so far on the starboard of each other as not to be considered as meeting head and head, either vessel shall immediately give two short and distinct blasts of her whistle, which the other vessel shall answer promptly by two similar blasts of her whistle, and they shall pass on the starboard side of each other.

(2) The foregoing only applies to cases where vessels are meeting end on or nearly end on, in such a manner as to involve risk of collision; in other words, to cases in which, by day, each vessel sees the mast of the other in a line, or nearly in a line, with her own, and by night to cases in which each vessel is in such a position as to see both the side lights of the other.

(3) It does not apply by day to cases in which a vessel sees another ahead crossing her own course, or by night to cases where the red light of one vessel is opposed to the red light of the other, or where the green light of one vessel is opposed to the green light of the other, or where a red light without a green light or a green light without a red light is seen ahead, or where both green and red light are seen anywhere but ahead.

(b) *Vessels nearing bend or curve in channel: moving from dock.* (1) Whenever a mechanically propelled vessel is nearing a short bend or curve in the channel, where, from the height of the banks or other cause, a mechanically propelled vessel approaching from the opposite direction cannot be seen for a distance of half a mile, such mechanically propelled vessel, when she shall have arrived within half a mile of such curve or bend, shall give a signal by one long blast of the whistle, which signal shall be answered by a similar blast, given by any approaching mechanically propelled vessel that may be within hearing. Should such signal be

so answered by a mechanically propelled vessel upon the farther side of such bend, then the usual signals for meeting and passing shall immediately be given and answered; but, if the first alarm signal of such vessel be not answered, she is to consider the channel clear and govern herself accordingly.

(2) When mechanically propelled vessels are moved from their docks or berths, and other boats are liable to pass from any direction toward them, they shall give the same signal as in the case of vessels meeting at a bend, but immediately after clearing the berths so as to be fully in sight they shall be governed by the steering and sailing rules.

(c) *Vessels running in same direction: overtaking vessel.* (1) When mechanically propelled vessels are running in the same direction, and the vessel which is astern shall desire to pass on the right or starboard hand of the vessel ahead, she shall give one short blast of the whistle, as a signal of such desire, and if the vessel ahead answers with one blast, she shall direct her course to starboard; or if she shall desire to pass on the left or port side of the vessel ahead, she shall give two short blasts of the whistle as a signal of such desire, and if the vessel ahead answers with two blasts, shall direct her course to port; or if the vessel ahead does not think it safe for the vessel astern to attempt to pass at that point, she shall immediately signify the same by giving several short and rapid blasts of the whistle, not less than five, and under no circumstances shall the vessel astern attempt to pass the vessel ahead until such time as they have reached a point where it can be safely done, when said vessel ahead shall signify her willingness by blowing the proper signals. The vessel ahead shall in no case attempt to cross the bow or crowd upon the course of the passing vessel.

(2) Every vessel coming up with another vessel from any direction more than two points abaft her beam, that is, in such a position with reference to the vessel which she is overtaking that at night she would be unable to see either of that vessel's side lights, shall be deemed to be an overtaking vessel; and no subsequent alteration of the bearing between the two vessels shall make the overtaking vessel a crossing vessel within the meaning of the rules in this Part, or relieve her of the duty of keeping clear of the overtaken vessel until she is finally past and clear.

(3) As by day the overtaking vessel cannot always know with certainty whether she is forward of or abaft this direction from the other vessel she should, if in doubt, assume that she is an overtaking vessel and keep out of the way.

(d) *Vessels approaching each other at right angles or obliquely.* (1) When two mechanically propelled vessels are approaching each other at right angles or obliquely so as to involve risk of collision, other than when one mechanically propelled vessel is overtaking another, the mechanically propelled vessel which has the other on her own port side shall hold her course and speed; and the mechanically propelled vessel which has the other on her own starboard side shall keep out of the way of the other by directing her course to starboard so as to cross the stern of the other mechanically propelled vessel, or, if necessary to do so, slacken her speed or stop or reverse.

(2) If from any cause the conditions covered by this situation are such as to prevent immediate compliance with each other's signals, the misunderstanding or objection shall be at once made apparent by blowing the danger signal, and both mechanically propelled vessels shall be stopped and backed if necessary, until signals for passing with safety are made and understood.

(a) *Sailing vessels.* When two sailing vessels are approaching one another, so as to involve risk of collision, one of them shall keep out of the way of the other as follows, namely:

(1) a vessel which is running free shall keep out of the way of a a vessel which is closehauled;

(2) a vessel which is closehauled on the port tack shall keep out of the way of a vessel which is closehauled on the starboard tack;

(3) when both are running free, with the wind on different sides, the vessel which has the wind on the port side shall keep out of the way of the other;

(4) when both are running free, with the wind on the same side, the vessel which is to the windward shall keep out of the way of the vessel which is to the leeward;

(5) a vessel which has the wind aft shall keep out of the way of the other vessel.

(f) *Meeting of mechanically propelled and sailing vessels; right-of-way.* (1) When a mechanically propelled vessel and a sailing vessel are proceeding in such directions as to involve risk of collision, the mechanically propelled vessel shall keep out of the way of the sailing vessel.

(2) The above rule shall not be construed as giving to a sailing vessel the right to hamper, in a narrow channel, the safe passage of a mechanically propelled vessel which can navigate only inside such channel.

(g) *Avoidance of crossing ahead.* Every mechanically propelled vessel which is directed by the rules in this Part to keep out of the way of another vessel shall, if the circumstances of the case admit, avoid crossing ahead of the other.

(h) *Keeping to right in narrow channels.* (1) In narrow channels every mechanically propelled vessel shall, when it is safe and practicable, keep to that side of the fairway or mid-channel which lies on the starboard side of such vessel.

(2) The above rule shall not be construed as giving to a sailing vessel or a mechanically propelled vessel of less than 65 feet in length, or a vessel with tow that is ascending or descending a river, the right to hamper, in a narrow channel, the safe passage of a larger sailing or mechanically propelled vessel which can navigate only inside such channel.

Historical Note

Sec. added by renum. 351.2, Title 6, filed Sept. 1971.

§ 445.3 Aid in distress.

It shall be the duty of every master or pilot of any vessel to render such assistance as he can possibly give to any other vessel coming under his observation and being in distress on account of accident, collision or otherwise.

Historical Note

Sec. added by renum. 351.3, Title 6, filed Sept. 1971.

§ 445.4 Departure from rules.

In obeying and construing the rules in this Part, due regard shall be had to all dangers of navigation and collision, and to any special circumstances which may render a departure from said rules necessary in order to avoid immediate danger.

Historical Note

Sec. added by renum. 351.4, Title 6, filed Sept. 1971.

§ 445.5 Application.

The rules of this Part shall apply to all vessels, public and pleasure, propelled by machinery on the navigable waters of the State.

Historical Note

Sec. added by renum. 351.5, Title 6, filed Sept. 1971.

PART 446

APPEARANCE TICKET AND SIMPLIFIED INFORMATION

(Statutory authority: PRHPL, §§ 3.09, 27.03; Navigation Law, §§ 19, 79-c)

Sec.

446.0 Uniform appearance ticket and simplified information
446.1 Definitions
446.2 Form of ticket specifications
446.3 Serial number
446.4 Ticket--part I
446.5 Ticket--part II
446.6 Ticket--part III
446.7 Ticket--part IV
446.8 Ticket--part V
446.9 Printers' reports
446.10 Enforcement agency ticket supply
446.11 Enforcement agency procedures and reports
446.12 Police officer procedure
446.13 Court procedure PAYMENT OF STATE AID TO COUNTIES, CITIES, TOWNS OR VILLAGES ENFORCING NAVIGATION LAW
446.21 Definitions
446.22 Effective date of State aid
446.23 Formula for dispersion of State aid
446.24 General agreement
446.25 Authorized expenditure

Historical Note

Part (§§ 446.0-446.17) added by renum. Part 352, Title 6, filed Sept. 1971; amd. filed Nov. 21, 1972. Substituted new Part title.

§ 446.0 Uniform appearance ticket and simplified information.

The uniform appearance ticket and simplified information, as prescribed herein shall be used commencing on the effective date of this Part; and on and after that date, no other form of ticket and information shall be used for offenses of the New York State Navigation Law, the New York State Parks, Recreation and Historic Preservation Law, or Subtitle I of Title 9 of the *Official Compilation of Codes, Rules and Regulations of the State of New York.*

Historical Note

Sec. added by renum. 352.0, Title 6, filed Sept. 1971; repealed, new filed Nov. 21, 1972; amd. filed May 7, 1982 eff. May 7, 1982.

§ 446.1 Definitions.

As used in this Part:

(a) *Offense* means a violation of any provision of the New York State Navigation Law, the New York State Parks, Recreation and Historic Preservation Law, or Subtitle I of Title 9 of the *Official Compilation of Codes, Rules and Regulations of the State of New York,* or any ordinance, rule or regulation enacted pursuant to the Navigation Law or Parks, Recreation and Historic Preservation Law, or any other law relating to navigation, snowmobiles or the State parks.

(b) *Police officer* includes any peace officer or member of the State Police who is authorized to issue a ticket for a navigation, snowmobile or parks and recreation offense.

(c) *Enforcement agency* means each local police force, including but not limited to: county, town, city and village police departments, sheriff departments, Division of State Police, the Office of Parks, Recreation and Historic Preservation and the Department of Environmental Conservation.

(d) *Court* means any criminal court, or any superior court sitting as a local criminal court having jurisdiction over offenses.

(e) *Ticket* shall mean the uniform appearance ticket and simplified information.

(f) *Uniform appearance ticket* means the appearance ticket defined in section 150.10 of the Criminal Procedure Law.

(g) *Simplified information* means the simplified parks information described in section 1.20 of the Criminal Procedure Law.

(h) *Commissioner* shall mean the Commissioner of Parks, Recreation and Historic Preservation.

Historical Note

Sec. added by renum. 352.1, Title 6, filed Sept. 1971; repealed, new filed Nov. 21, 1972; amd. filed May 7, 1982 eff. May 7, 1982.

§ 446.2 Form of ticket and specifications.

(a) The ticket shall be a multicopy form, with interleaved carbons, conforming to the following:

(1) Each part shall be 4 ¼ inches wide by 7 inches long, plus a ¾-inch stub for binding.

(2) Each carbon shall be 4 ¼ inches wide by 7 inches long, excluding the binding stub.

(b) It shall consist of at least five parts. An enforcement agency requiring additional parts to the ticket may obtain permission therefor from the commissioner.

(c) The paper for each part of the ticket shall be as prescribed in subdivision (e) of this section.

(d) The carbons shall be 5 ½ pounds, no freeze, high-quality hard cabon.

(e) The parts thereof shall be of the following colors and weights:

Part	*Copy*	*Color*	*Weight*
Part I	(original)	light orange	16-pound bond
Part II	(duplicate)	white	10-pound bond
Part III	(triplicate)	light green	10-pound bond
Part IV	(quadruplicate)	yellow	10-pound bond
Part V	(quintuplicate)	light pink	110-pound index

(f) The name of the enforcement agency may appear on each part of the ticket; it shall, however, be placed as indicated hereinafter. An enforcement agency may rubber-stamp its name in the space available on the margin of each part of the ticket.

(g) All material on each part of the ticket, except where indicated to be printed in red, shall be printed in black.

(h) The size of type used on each part of the ticket, except where a definite size is otherwise indicated, shall be approximately as shown on the ticket forms included herein.

(i) Tickets may be glued or stapled in sets of 10, 25 or 50 to a book or may be issued in single sets for use in special holders.

Historical Note

Sec. added by renum. 352.2, Title 6, filed Sept. 1971; repealed, new filed Nov. 21, 1972.

§ 446.3 Serial number.

(a) A serial number shall be printed in the upper right-hand corner of each part of the ticket, parallel to the long side of the ticket.

(b) Such number shall not exceed six digits and shall be printed in red in numerals ¼ inch in height.

(c) Any printer firm (not under State contract) who prints tickets directly for any enforcement agency must print the serial numbers in black.

(d) Tickets shall be numbered in consecutive serial number order by the printer thereof and no ticket number shall be duplicated by the printer

Historical Note

Sec. added by renum. 352.3, Title 6, filed Sept. 1971; repealed, new filed Nov. 21, 1972.

§ 446.4 Tickets—part I.

(a) Part I of the ticket is the original and is given to the alleged offender.

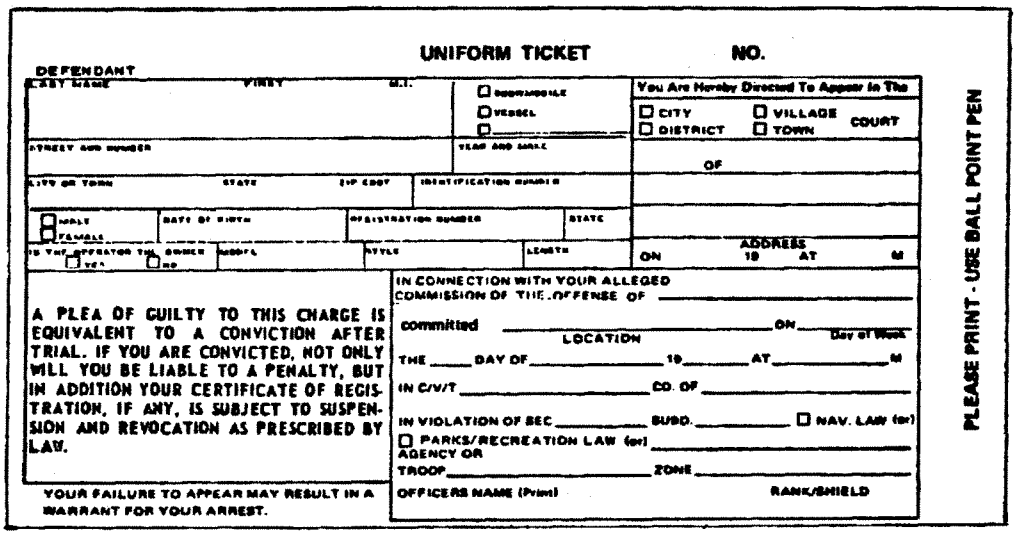
(b) It shall be printed on light orange stock.

(c) The following instruction shall be printed in red, in boldface 12-point type, as indicated below:

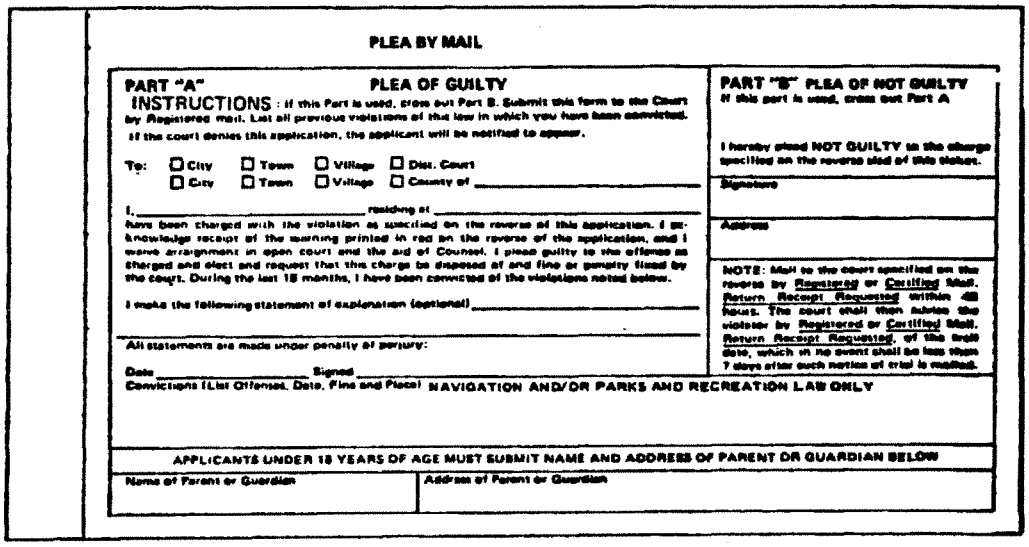
"A PLEA OF GUILTY TO THIS CHARGE IS EQUIVALENT TO A CONVICTION AFTER TRIAL. IF YOU ARE CONVICTED, YOU ARE LIABLE TO A PENALTY, BUT IN ADDITION YOUR CERTIFICATE OF REGISTRATION, IF ANY, IS SUBJECT TO SUSPENSION AND REVOCATION AS PRESCRIBED BY LAW."

(d) It shall be printed in the following form, front and back:

(1) Front.



(2) Back.



PLEA BY MAIL

PART "A" PLEA OF GUILTY

INSTRUCTIONS : If this Part is used, cross out Part B. Submit this form to the Court by Registered mail. List all previous violations of the law in which you have been convicted. If the court denies this application, the applicant will be notified to appear.

To: ☐ City ☐ Town ☐ Village ☐ Dist. Court
☐ City ☐ Town ☐ Village ☐ County of _____

I, _____ residing at _____ have been charged with the violation as specified on the reverse of this application. I acknowledge receipt of the warning printed in red on the reverse of the application, and I waive arraignment in open court and the aid of Counsel. I plead guilty to the offense as charged and elect and request that this charge be disposed of and fine or penalty fixed by the court. During the last 18 months, I have been convicted of the violations noted below.

I make the following statement of explanation (optional) _____

All statements are made under penalty of perjury:

Date _____ Signed _____

Convictions (List Offenses, Date, Fine and Place) NAVIGATION AND/OR PARKS AND RECREATION LAW ONLY

APPLICANTS UNDER 18 YEARS OF AGE MUST SUBMIT NAME AND ADDRESS OF PARENT OR GUARDIAN BELOW

Name of Parent or Guardian | Address of Parent or Guardian

PART "B" PLEA OF NOT GUILTY
If this part is used, cross out Part A

I hereby plead NOT GUILTY to the charge specified on the reverse side of this ticket.

Signature

Address

NOTE: Mail to the court specified on the reverse by Registered or Certified Mail, Return Receipt Requested within 48 hours. The court shall then advise the violator by Registered or Certified Mail, Return Receipt Requested, of the trial date, which in no event shall be less than 7 days after such notice of trial is mailed.

Historical Note

Sec. added by renum. 352.4, Title 6, filed Sept. 1971; repealed, new filed Nov. 21, 1972.

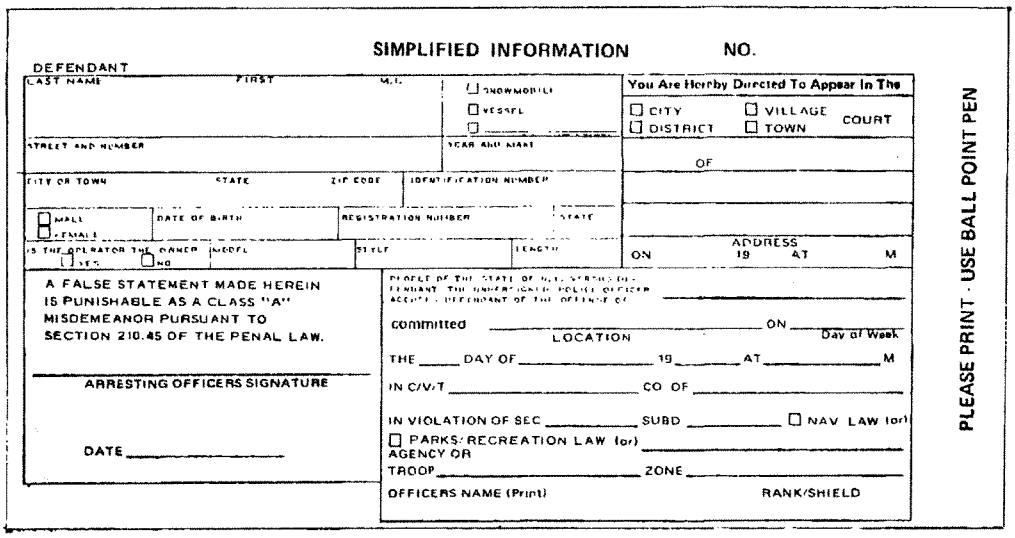
§ 446.5 Ticket—part II.

(a) Part II is the simplified information and after having been subscribed and sworn to by the officer, shall be delivered to the court in which the alleged offender is notified to appear.

(b) It shall be printed on white stock.

(c) The words "SIMPLIFIED INFORMATION" shall be printed red.

(d) It shall be printed in the following form:



SIMPLIFIED INFORMATION NO.

DEFENDANT
LAST NAME FIRST M.I.

☐ SNOWMOBILE ☐ VESSEL ☐ _____

You Are Hereby Directed To Appear In The
☐ CITY ☐ VILLAGE ☐ DISTRICT ☐ TOWN COURT

STREET AND NUMBER | YEAR AND MAKE

OF

CITY OR TOWN | STATE | ZIP CODE | IDENTIFICATION NUMBER

☐ MALE ☐ FEMALE | DATE OF BIRTH | REGISTRATION NUMBER | STATE

IS THE OPERATOR THE OWNER ☐ YES ☐ NO | MODEL | STYLE | LENGTH

ADDRESS
ON 19 AT M

A FALSE STATEMENT MADE HEREIN IS PUNISHABLE AS A CLASS "A" MISDEMEANOR PURSUANT TO SECTION 210.45 OF THE PENAL LAW.

ARRESTING OFFICERS SIGNATURE

DATE _____

PEOPLE OF THE STATE OF N.Y. VERSUS DEFENDANT THE UNDERSIGNED POLICE OFFICER ACCUSES DEFENDANT OF THE OFFENSE OF _____

committed _____ ON _____
LOCATION Day of Week

THE ____ DAY OF _____ 19____ AT _____ M

IN C/V/T _____ CO OF _____

IN VIOLATION OF SEC _____ SUBD _____ ☐ NAV LAW (or) ☐ PARKS/RECREATION LAW (or) _____
AGENCY OR

TROOP _____ ZONE _____

OFFICERS NAME (Print) RANK/SHIELD

PLEASE PRINT - USE BALL POINT PEN

Historical Note

Sec. added by renum. 352.5, Title 6, September, 1971; repealed, new added, filed Nov. 21, 1972.

§ 446.6 Ticket—part III.

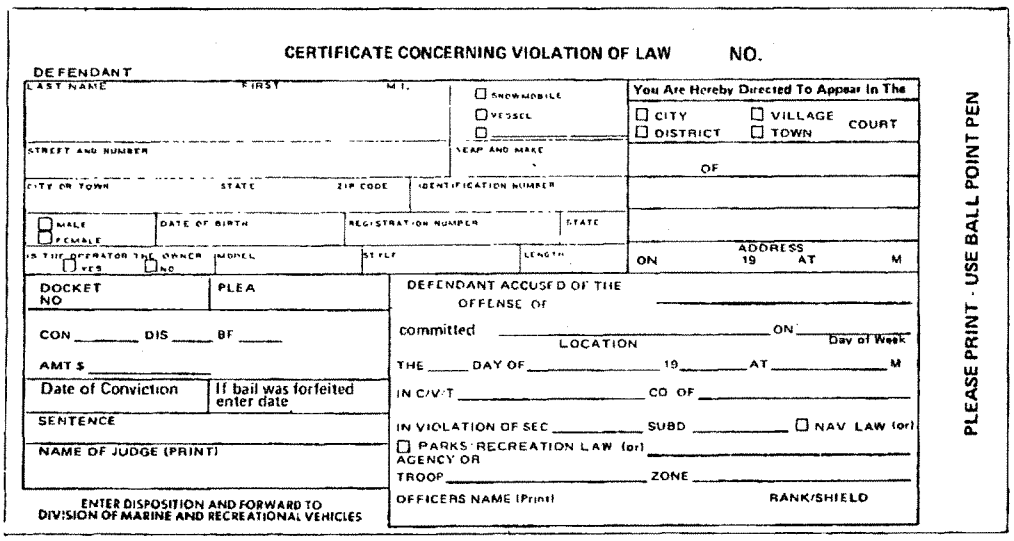
(a) Part III of the ticket is the certificate concerning violation, and shall be delivered to the court in which the alleged offender is notified to appear.

(b) It shall be printed on light green stock.

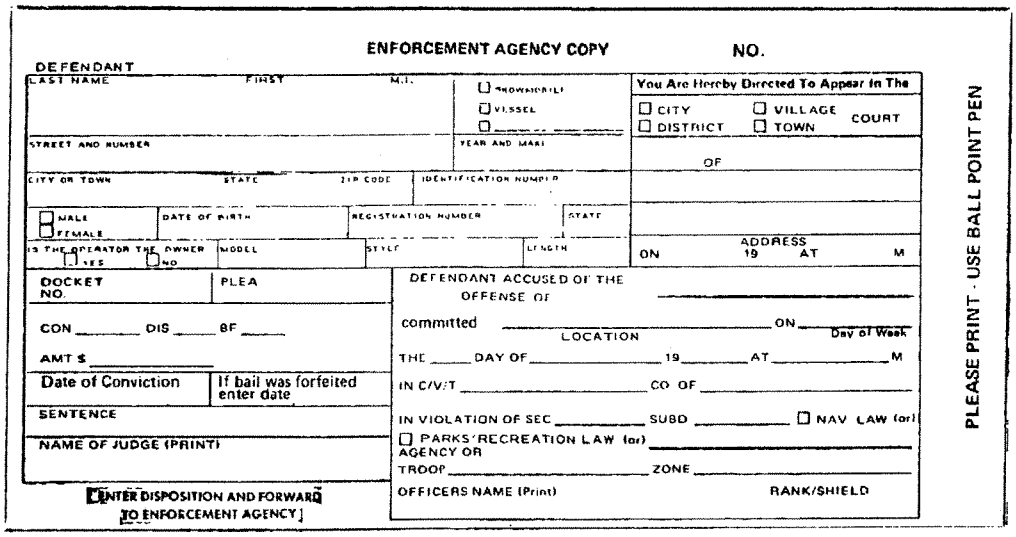
(c) The words "CERTIFICATE CONCERNING VIOLATION OF LAW" shall be printed red.

(d) It shall be printed in the following form; front and back:

(1) Front.



(2) Back.



Historical Note

Sec. added by renum. 352.6, Title 6, September, 1971; repealed, new added, filed Nov. 21, 1972.

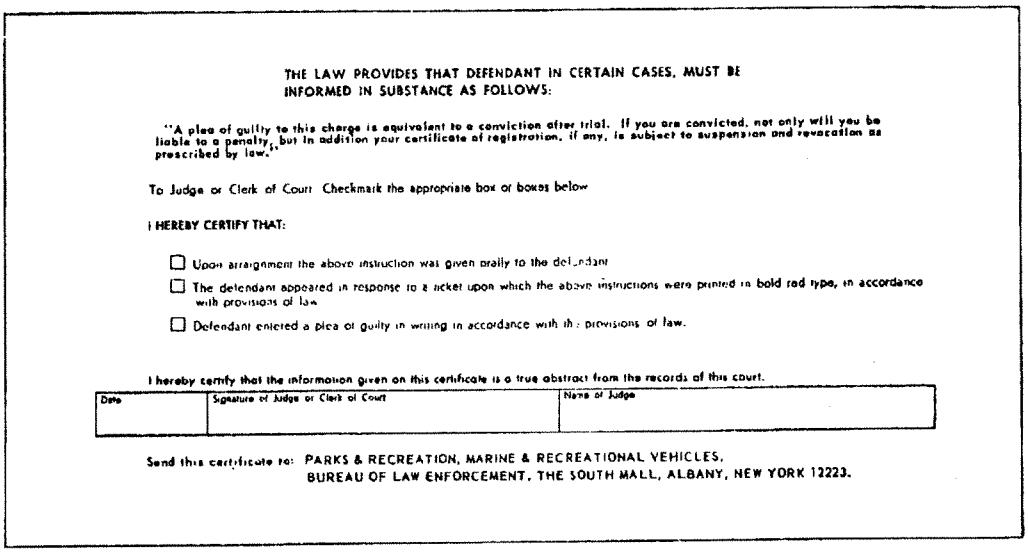
§ 446.7 Ticket—part IV.

(a) Part IV of the ticket is the quadruplicate and shall be given to the enforcement agency by the police officer after the original has been issued.

(b) It shall be printed on light yellow stock.

(c) The words "ENFORCEMENT AGENCY COPY" shall be printed in red.

(d) It shall be printed in the following form:



THE LAW PROVIDES THAT DEFENDANT IN CERTAIN CASES, MUST BE INFORMED IN SUBSTANCE AS FOLLOWS:

"A plea of guilty to this charge is equivalent to a conviction after trial. If you are convicted, not only will you be liable to a penalty, but in addition your certificate of registration, if any, is subject to suspension and revocation as prescribed by law."

To Judge or Clerk of Court Checkmark the appropriate box or boxes below

I HEREBY CERTIFY THAT:

☐ Upon arraignment the above instruction was given orally to the defendant

☐ The defendant appeared in response to a ticket upon which the above instructions were printed in bold red type, in accordance with provisions of law

☐ Defendant entered a plea of guilty in writing in accordance with the provisions of law.

I hereby certify that the information given on this certificate is a true abstract from the records of this court.

Date	Signature of Judge or Clerk of Court	Name of Judge

Send this certificate to: PARKS & RECREATION, MARINE & RECREATIONAL VEHICLES, BUREAU OF LAW ENFORCEMENT, THE SOUTH MALL, ALBANY, NEW YORK 12223.

Historical Note

Sec. added by renum. 352.7, Title 6, September, 1971; repealed, new added, filed Nov. 21, 1972.

§ 446.8 Ticket—part V.

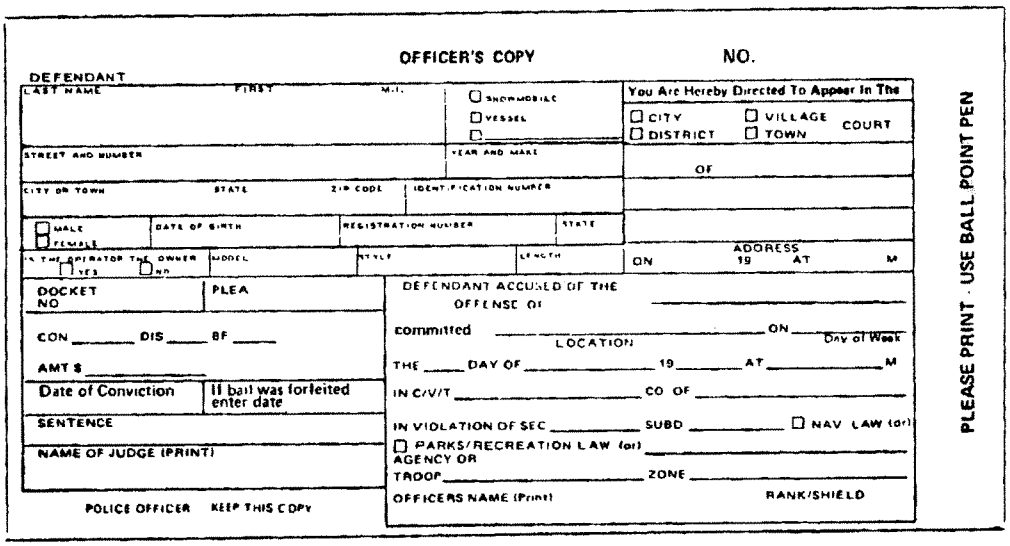
(a) Part V of the ticket is the quintuplicate and shall be retained by the police officer.

(b) It shall be printed on light pink stock.

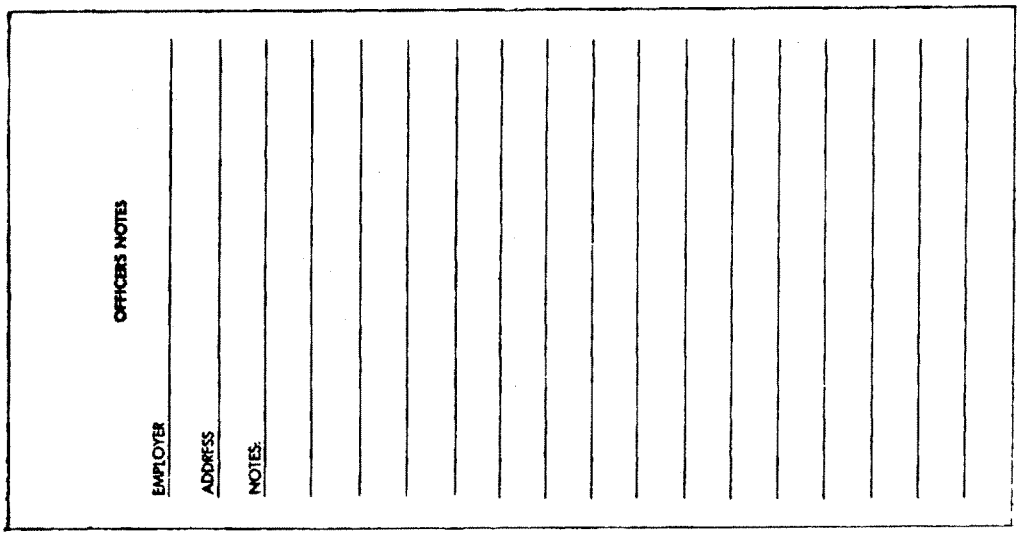
(c) The words OFFICER's COPY shall be printed in red.

(d) It shall be printed in the following form, front and back:

(1) Front.



(2) Back.



Historical Note

Sec. added by renum. 352.8, Title 6, filed Sept. 1971; repealed, new filed Nov. 21, 1972.

§ 446.9 Printers' reports.

(a) Any printer who supplies uniform appearance tickets directly to any enforcement agency shall make a report thereof to the Commissioner of Parks, Recreation and Historic Preservation; Attention: Bureau of Marine and Recreational Vehicles, Agency Building 1, Empire State Plaza, Albany, N.Y. 12238, within five days after shipment of the tickets, supplying the following information:

(1) name and address of enforcement agency;

(2) first and last serial numbers of tickets;

(3) serial number of any missing tickets; and

(4) date of shipment or delivery.

Historical Note

Sec. added by renum. 352.9, Title 6, filed Sept. 1971; repealed, new filed Nov. 21, 1972: amd. filed May 7, 1982 eff. May 7, 1982.

§ 446.10 Enforcement agency ticket supply.

(a) The commissioner will supply a duly authorized enforcement agency with an adequate supply of tickets upon request by that agency.

(b) Each enforcement agency shall maintain adequate facilities for the storage of tickets to them by the commissioner.

(c) Each agency shall be responsible for the assignment of the tickets to police officers under its jurisdiction.

(d) Tickets shall be assigned to police officers in consecutive series and the agency shall retain a control record of all tickets issued.

(e) Appearance tickets purchased or procured by enforcement agencies from sources other than the commissioner shall not be deemed an authorized expenditure for reimbursement purposes under section 27.15 of the Parks, Recreation and Historic Preservation Law, or article 4-A of the Navigation Law, relating to State aid for law enforcement.

Historical Note

Sec. added by renum. 352.10, Title 6, filed Sept. 1971; repealed, new filed Nov. 21, 1972; amd. filed May 7, 1982 eff. May 7, 1982.

§ 446.11 Enforcement agency procedures and reports.

(a) The enforcement agency shall maintain a file, arranged in numerical sequence of serial numbers of part IV of each ticket issued by a police officer under its jurisdiction.

(b) Each agency shall submit twice yearly a report to the commissioner, on forms prescribed, as to the status, at that time, of all tickets issued by police officers under the jurisdiction of such agency, covering the last six months' period. Final reporting dates in any given year are April 15th, and October 15th. Such reports as required shall contain information relating to:

(1) tickets assigned;

(2) tickets issued by police officers;

(3) tickets disposed of, with disposition thereof;

(4) tickets still pending; and

(5) void, mutilated or destroyed tickets.

(c) Such report shall also indicate tickets reported undisposed of in reports for previous biannual periods and of which disposition has not yet been made.

(d) All parts of each ticket reported mutilated or voided shall be forwarded to the commissioner with such biannual report.

(e) Each report containing a notation as to a lost ticket shall be accompanied by an affidavit from the officer who lost the ticket after it had been assigned to him.

Historical Note

Sec. added by renum. 352.11, Title 6, filed Sept. 1971; repealed, new filed Nov. 21, 1972.

§ 446.12 Police officer procedure.

(a) When an alleged offender is issued a uniform appearance ticket, the police officer shall deliver part I to the alleged offender, parts II and III to the court in which the alleged offender is notified to appear, and retain part IV in the enforcement agency for control purposes. He shall retain part V for his own record.

(b) If a ticket is mutilated or voided, the police officer to whom it has been assigned shall return all parts thereof to the enforcement agency which assigned the ticket to him.

(c) If a ticket is lost, the police officer who lost the same shall file with the enforcement agency an affidavit, in duplicate, as to the loss of such ticket.

Historical Note

Sec. added by renum. 352.12, Title 6, filed Sept. 1971; repealed, new filed Nov. 21, 1972.

§ 446.13 Court procedure.

When a navigation or parks, recreation and historic preservation offense for which a uniform appearance ticket has been issued, has been disposed of, the court, in addition to any other report required by law, shall indicate the disposition of the matter on part III of the summons and immediately forward the same to the Commissioner of Parks, Recreation and Historic Preservation.

Historical Note

Sec. added by renum. 352.13, Title 6, filed Sept. 1971; repealed, new filed Nov. 21, 1972; amd. filed May 7, 1982 eff. May 7, 1982.

§ 446.14-446.17

Historical Note

Secs. added by renum. 352.14-352.17, Title 6, filed Sept. 1971; repealed, filed Nov. 21, 1972.

PAYMENT OF STATE AID TO COUNTIES, CITIES, TOWNS OR VILLAGES ENFORCING NAVIGATION LAW

§ 446.21 Definitions.

As used in sections 446.21-446.25 of this Part:

(a) *State aid* shall mean payments by the State to a county, city, town or village toward the cost of enforcing the provisions of the Navigation Law.

(b) *Enforcement year* shall mean the calendar year.

(c) *County* shall mean each county in the State of New York, except those counties which lie within the territorial limits of the City of New York. The term *county* with reference to such counties lying within the territorial limits of the City of New York shall mean the City of New York.

(d) *Cities, towns* or *villages* shall mean each city, town or village lying within a county that does not enforce the provisions of the Navigation Law.

(e) *Authorized expenditures* shall mean those expenditures determined by the commissioner to be reasonable and necessary for the adequate and proper enforcement of the provisions of the Navigation Law. Such authorized expenditures are listed under section 446.25 of this Part.

(f) *County, city, town* or *village representative* shall mean the person or persons authorized by the county board of supervisors, city council, town board, or village board of trustees to deal directly with the commissioner in the administration of the State aid program.

(g) *Commissioner* shall mean the Commissioner of Parks, Recreation and Historic Preservation.

(h) *Authorized equipment* shall mean all equipment required on boats by section 40 of the Navigation Law, and shall include boats, motors, lifesaving, firefighting, safety and communications equipment, boat trailers, and any other items that the commissioner deems reasonable and necessary, which are used exclusively in the duties performed and associated with navigation safety and enforcement.

(i) *Enforcement* shall mean to actively maintain a navigation patrol, to effect the issuance of uniform navigation summonses for violations of the Navigation Law and/or any rule or regulation enacted thereunder.

Historical Note

Sec. added by renum. 448.1, filed Dec. 1971; amd. filed May 7, 1982 eff. May 7, 1982.

§ 446.22 Effective date of State aid.

On and after July 1, 1965, the amount of State aid to be allocated to counties, cities, towns and villages pursuant to article 4-A of the Navigation Law, as amended by chapter 168 of the Laws of 1965, shall be determined by the commissioner as hereinafter provided. Section 79-b of the Navigation Law, as amended by chapter 168 of the Laws of 1965, provides that each county, city, town or village enforcing the provisions of the Navigation Law, including section 71 thereof, shall be entitled to receive State aid as hereinafter provided. A county, city, town or village seeking reimbursement for expenditures incurred in enforcement of the Navigation Law shall submit to the commissioner, by October 1st of each year, an estimate of such information as he may require. Within one month after the close of the calendar year, each county, city, town or village shall submit to the commissioner a statement of authorized expenditures actually incurred, in such form and containing such information as he may require.

Historical Note

Sec. added by renum. 448.2, filed Dec. 1971; amd. filed May 7, 1982 eff. May 7, 1982.

§ 446.23 Formula for dispersion of State aid.

The amount of State aid to be allocated to counties, cities, towns or villages, pursuant to this Part, shall be determined by the percentage proportion which the authorized expenditure of each individual county, city, town or village, not exceeding $100,000 for each county, including municipalities therein, shall bear to the total authorized expenditures of all the counties, cities, towns or villages for enforcement of the Navigation Law during such enforcement year. Such percentage proportion shall then be applied against an amount equal to one half of the amount received by the commissioner in fees received for registration of motor boats during such enforcement year. The amount thus determined shall constitute the maximum amount of State aid to which each county, city, town or village shall be entitled; provided, however, no county, city, town or village shall receive State aid in an amount in excess of one half of its authorized expenditures as approved by the commissioner for such enforcement year ($50,000 maximum) per county, including municipalities therein.

Historical Note

Sec. added by renum. 448.3, filed Dec. 1971; amd. filed May 7, 1982 eff. May 7, 1982.

§ 446.24 General agreement.

(a) All personnel assigned to duty of Navigation Law enforcement shall be mentally and physically capable of performing the duties to which they are assigned. They shall have a good knowledge of the provisions of the Navigation Law and the powers, duties and limitation of authority of peace officers. They shall have a thorough knowledge of the operation of small boats and the rules and regulations pertaining to such operation.

(b) All persons engaged in the Navigation Law enforcement program shall actively cooperate with the commissioner or his authorized representative, including but not limited to the answering of questions, making reports and showing records as requested. The commissioner reserves the right to refuse payment to any county, city, town or village for that portion of authorized expenditures paid to personnel deemed to be unfit to carry out the duties assigned.

(c) All counties, cities, towns and villages participating in the State aid program agree to:

(1) investigate complaints or Navigation Law violations within their jurisdiction, including those referred to the county, city, town or village by the commissioner;

(2) investigate accidents occurring within their jurisdiction;

(3) enforce the provisions of the Navigation Law that are applicable to waters within their jurisdiction;

(4) submit such reports as the commissioner may desire;

(5) keep records pertaining to violations, accidents and authorized expenditures;

(6) advise boat owners on the safe method of operating boats;

(7) assist in the distribution of such public information as may be provided by the commissioner;

(8) certify that all claims and documents which are part thereof are true and correct;

(9) purchase and maintain uniform navigation summonses and issue same for violations of the Navigation Law;

(10) maintain an up-to-date navigation enforcement logbook, by day, for each navigation season. The log shall contain the hours patrolled, the body or bodies of water patrolled, the name of the person(s) on patrol, a brief resume of any accidents investigated, and any extraordinary equipment needed in the investigation. Upon demand of the commissioner and/or his authorized representative, the log shall be made available for examination; and

(11) make available any or all equipment purchased or rented under the State aid program to the commissioner and/or his authorized representative for the purpose of inspection, investigation or any other official duties.

(d) The commissioner reserves the right to deny payment of any claim or part thereof which is not deemed to be a reasonable and necessary expenditure.

(e) The commissioner reserves the right to withhold payment on any claim pending the investigation of the contents of said claim.

(f) The commissioner reserves the right to deny payment of any claim if any part of the said claim is found to be false and submitted with intent to defraud.

(g) The commissioner reserves the right to deny payment, after investigation, to any county, city, town or village that, in his opinion, is not adequately enforcing the provisions of the Navigation Law.

Historical Note

Sec. added by renum. 448.4, filed Dec. 1971; amd. filed May 7, 1982 eff. May 7, 1982.

§ 446.25 Authorized expenditures.

(a) *Authorized equipment.* The following items shall be deemed authorized expenditures, and the cost of such items, when used pursuant to the provisions of this Part, shall be reimbursable, in accordance with section 446.23 of this Part, to any county, city, town or village upon submission of a claim in accordance with this Part. However, other items of expenditure may be authorized if found to be reasonable and necessary. Prior approval of an expenditure not contained herein must be obtained from the commissioner, or enforcement representative; otherwise such expenditures will not be considered authorized expenditures and will not qualify for reimbursement under this Part. All authorized equipment which has originally been included in a claim, and for which reimbursement has been made in accordance with this Part, shall not be disposed of for a period of five years without prior approval of the commissioner. In the event that authorized equipment, which has originally been included in a claim and for which reimbursement has been made in accordance with this Part, is in need of replacement, the trade-in value or fair market value shall not be included in the claim for reimbursement of the purchase of new equipment. The cost of replacing authorized equipment which has been lost or destroyed by fire or other mishap may be claimed. However, any amount received from insurance coverage in payment or partial payment for the loss of such equipment shall be deducted from the claim for the new equipment purchase.

(1) Boats and boat equipment, provided that the total authorized expenditure for any one boat, including engine(s), trailer and other integral equipment, shall not exceed $50,000:

Anchors

Bilge pumps
Boat covers
Boat hooks
Boat ladders
Boat motors
Boat trailers
Bumpers and fenders
Canvases
Compasses
Cushions
Fire extinguishers (portable and installed)
Horns
Life rings
Life saving devices, approved
Lights, running
Lights, spot
Paddles
Penetrators
Ropes and lines
Sirens
Speedometers

(2) Communications and equipment:

Megaphones
Radios (installations and repair for boat units only)
Telephones (navigation only)

(3) Navigation school expenses:

Navigation school lodging (not to exceed State rate)
Navigation school mileage in a private car (not exceeding county, city, town and village rates)
Navigation school meals

(4) Special clothing:

Badges
Caps
Deck shoes
Jackets
Raincoats
Rain hats
Shirts

(5) Miscellaneous:

Binoculars
Boat trailer tires
Boat trailer hitches
Bolt cutters

Buoys and signs, regulatory

Buoys, mooring (for patrol vessels)

Cigarette lighter for boat (plug-in light)

Dragging equipment

Flags

Inhalators

Logbooks

Log case

(6) Operation and maintenance costs as follows (automobiles excluded):

(i) all repairs, both general and emergency;

(ii) cost of gas and oil (exclusive of Federal and State tax);

(iii) mooring cost;

(iv) winter storage;

(v) general overhaul and/or equipment such as radios, radar, etc.,

(vi) insurance cost;

(vii) personal traveling expenses (including attendances at conferences, etc. However, they must be in accordance with the provisions of section 77-b of the General Municipal Law);

(viii) automobile mileage allowance at the approved county, city, town or village rate (when auto is used in Navigation Law enforcement);

(ix) personnel training costs (payable in cases of Navigation Law enforcement training including attendances at schools, training conferences, etc. However, they must be in accordance with the provisions of section 77-b of the General Municipal Law);

(x) miscellaneous office supplies and expenses (itemize and explain).

(b) (1) *Personnel service, temporarily assigned to Navigation Law enforcement.* The wages of personnel assigned to Navigation Law enforcement during the period in which the person actually performs the duty of enforcing the Navigation Law shall be an authorized expenditure. When an officer is assigned navigation duties, an itemized account of such time and the reasons therefor must be submitted and that portion of wages earned while actually engaged in Navigation Law enforcement shall be deemed an authorized expenditure. However, no claim may be submitted unless each person involved has been engaged in the duty of Navigation Law enforcement for a total period of not less than 40 hours during the enforcement year.

(2) In addition to vouchers or payrolls, a separate certificate will be required for permanent and temporary personnel which must include name of person, title or position, rate of pay, total time worked, and periods in which work was performed, and must be certified by the department head of the enforcement unit of a county, city, town or village submitting the claim.

(3) Prior approval must be obtained from the commissioner before supervisory personnel can be reimbursed and only on the basis of proven expenditures.

(c) *Rentals.* Equipment may be rented by counties, cities, towns or villages for use by the Navigation Law enforcement unit. However, the claim for rental of such equipment shall not exceed one fifth of the total new purchase price for the season's rent of such equipment. Equipment rented for short periods of time shall not exceed the following authorized expenditure allowed: one fifth of the total new price divided by 10 equals maximum rental allowance for one week. A contract or agreement made by a county, city, town or village regarding the rental of any equipment for use in navigation enforcement, must be submitted to and approved in writing by the commissioner before it will be deemed an authorized expenditure.

Historical Note

Sec. added by renum. 448.5, filed Dec. 1971; amds. filed: May 7, 1982; Feb. 11, 1991 eff. Feb. 27, 1991. Amended (a)-(b).

PART 447

CONDUCT OF REGATTAS

(Statutory authority: Navigation Law, § 34)

Sec.

447.1 Definitions
447.2 Preliminary preparations
447.3 During regatta
447.4 After regatta

Historical Note

Part (447.1-447.4) added by renum. Part 353, Title 6, filed Sept. 1971.

§ 447.1 Definitions.

As used in this Part:

(a) *Commissioner* shall mean the Commissioner of Parks, Recreation and Historic Preservation.

(b) *Regatta* is an organized water event of limited duration which is conducted according to prearranged schedule and in which general public interest is manifested.

(c) *Regatta permit* is written permission from the commissioner authorizing the holding of regattas on the navigable waters of the State, pursuant to the provisions of section 34 of the Navigation Law. However, on waters over which the Federal government exercises active control regarding the regulation of regattas, permits shall be obtained from the Federal government (United States Coast Guard), in which case a New York State regatta permit will not be required. Application for a regatta permit shall be made to the commissioner, on forms to be provided by him.

(d) *Sponsor* is an individual, society, club, firm, partnership, corporation or association of persons who has organized and is conducting the regatta and in whose name the regatta permit is issued.

(e) *Special navigation inspector* shall mean the person or persons appointed by the commissioner pursuant to the provisions of section 18 of the Navigation Law.

Historical Note

Sec. added by renum. 353.1, Title 6, filed Sept. 1971; amd. filed May 7, 1982 eff. May 7, 1982.

§ 447.2 Preliminary preparations.

(a) At least 15 days prior to the date of the proposed regatta, to be held on the navigable waters of the State, the sponsor of such regatta shall file an application with the commissioner and obtain a permit from him. Insurance coverage shall be provided by the sponsor in accordance with the requirements of the commissioner.

(b) When regattas are proposed to be held on waters which generally sustain commercial traffic, this fact should be indicated on the application and the application should be filed at least 30 days prior to the date of the regatta. The sponsor shall supplement the application by a full explanation of the approximate quantity and type of commercial traffic, and the relationship between the traffic channels and the proposed regatta area.

(c) When the application is approved, a regatta permit will be issued. The permit will specify the date or dates and the waterway upon which the regatta is to be held, and unless alternate dates are specified, the regatta must commence and terminate within the time set forth in the permit. The permit may contain special rules and regulations, and permission to place certain equipment necessary for the conduct of the regatta.

(d) Upon the recommendation of the sponsor, at least three persons will be appointed as special navigation inspectors, and their names will be listed on the regatta permit. It shall be the

duty of special navigation inspectors to enforce the provisions of the Navigation Law and the rules and regulations for the conduct of regattas, and any special rules and regulations which may be included on the regatta permit, during the period in which the regatta is authorized. Such special navigation inspectors shall receive no compensation from the State. Any expense in connection with their duties shall be borne by the sponsor of the regatta.

(e) The special navigation inspectors shall be provided with fully equipped boats of a size and speed suitable for patrolling the type of regatta in progress. The minimum equipment to be carried shall be in accordance with the provisions of section 40 of the Navigation Law, and extra equipment shall be left to the discretion of the inspector but shall be suitable for safety and lifesaving work for the type of regatta in progress.

(f) It shall be the duty of the sponsor to notify local police and property owners in the vicinity of the regatta area, and any other persons who may be affected by the regatta, of the date, time and place the regatta will be held.

(g) Permission may be granted in the regatta permit authorizing the sponsor to place equipment within the regatta area, such as buoys, markers, ski jumps, etc. However, such permission, when granted, is subject to the following provisions:

(1) Equipment may be placed in the water up to 48 hours prior to the time of the regatta for use in trial runs.

(2) Equipment shall be placed in the water after sunrise and shall be removed before sunset each day, unless properly and adequately lighted continuously during the period between sunset and sunrise, so as to warn navigation of the existence and location of such equipment.

(3) All equipment must be removed from the water before sunset on the last day of the regatta.

(4) Whenever practicable, equipment shall be colored orange, or a combination of orange and white.

(h) Prior to commencement of the regatta, the special navigation inspectors shall inspect all equipment expected to be used. The inspection shall include boats, ski jumps, tow ropes, buoys, and any other special equipment which will be used. The inspectors shall also travel the entire course of the regatta and adjacent area in order to ascertain that there are no obstructions which may be considered unsafe. The inspectors shall read the contents of the regatta permit and pay particular attention to "special rules", if any, which the permit may contain.

Historical Note

Sec. added by renum. 353.2, Title 6, filed Sept. 1971; amd. filed May 7, 1982 eff. May 7, 1982.

§ 447.3 During regatta.

(a) The special navigation inspectors shall be expected to take whatever measures are necessary, in addition to those listed below, to insure the safety of participants, spectators or any other persons during the authorized regatta.

(b) Immediately prior to the start of the regatta, at least two special navigation inspectors shall take stations whereby they are in the most suitable position to accomplish the following:

(1) warn traffic approaching regatta area;

(2) prevent spectators in boats or ashore from getting too close to regatta area;

(3) give assistance in case of participant accident (unless a boat is specifically assigned to this task) or other type of mishap;

(4) stay close to the majority of participants (during races); and

(5) summon medical aid or other type of assistance from shore.

Historical Note

Sec. added by renum. 353.3, Title 6, filed Sept. 1971.

§ 447.4 After regatta.

(a) When the regatta is over, the special navigation inspectors shall supervise the dispersion of spectators in an orderly manner.

(b) It shall be the duty of special navigation inspectors to cause the removal of all equipment temporarily authorized for use during the regatta, prior to sunset on the last day of the regatta.

(c) Within 48 hours after a regatta, the special navigation inspectors shall compile a joint report and submit it to the commissioner. The report shall contain:

(1) general observation of the inspectors;

(2) report of violations of law or rules and regulations;

(3) complete data on accidents sustained by participants, spectators or any persons in regatta area.

Historical Note

Sec. added by renum. 353.4, Title 6, filed Sept. 1971; amd. filed May 7, 1982 eff. May 7, 1982.

PART 448

PLACING OF NAVIGATION AIDS AND FLOATING OBJECTS IN NAVIGABLE WATERS OF NEW YORK STATE—DIVER REGULATIONS AND USE OF DIVER FLAGS

(Statutory authority: Navigation Law, §§35, 35-a, 35-b, 43, 45)

Sec.

448.1 Definitions
448.2 Aids to navigation
448.3 Special anchorage areas
448.4 Floating objects
448.5 Special markers
448.6 Shore signs regulating navigation
448.7 Fishing buoys
448.8 Penalty
448.9 Diver regulations and use of diver's flags

Historical Note

Part (§§448.1-448.5) added by renum. Part 354, Title 6, filed Sept. 1971; renum. §§446.21-446.25, new (§§ 448.1-448.8) added by renum. Part 449, filed Dec. 1971; amd. filed Nov. 21, 1972 eff. Nov. 17, 1972. Amended Part title.

§ 448.1 Definitions.

(a) *Aids to navigation* shall mean buoys, beacons or other fixed objects in the water which are used to mark obstructions to navigation or to direct navigation through safe channels.

(b) *Floating object* shall mean any anchored marker or platform floating on the surface of the water, other than aids to navigation, and shall include, but not be limited to, bathing beach markers, speed zone markers, information markers, swimming or diving floats, mooring buoys, fishing buoys and ski jumps.

(c) *Adjacent upland owner* shall mean the person or persons having title in fee to the land bordering on the water in which the floating object is to be placed.

(d) *Fishing buoy,* as used in this Part, shall mean a floating marker conforming in construction and markings as hereinafter specified and which may be placed by fishermen while engaged in recreational fishing for whitefish or lake trout.

(e) *Special marker* shall mean buoys, signs, floating or fixed objects in the water or on shore, other than aids to navigation, which are used to convey information, warning, or to indicate areas of control or regulation.

(f) *Commissioner* shall mean the Commissioner of Parks, Recreation and Historic Preservation.

(g) *Diver* shall mean anyone who dives below the water for exploratory purposes with or without the use of scuba equipment.

(h) *Diver's flag* shall mean a red flag at least 12 inches by 12 inches with a white diagonal stripe not less than three inches wide and not more than three inches wide.

Historical Note

Sec. added by renum. 354.1, Title 6, filed Sept. 1971; renum. 446.21, new added by renum. 449.1, filed Dec. 1971; amds. filed: Nov. 21, 1972; May 7, 1982 eff. May 7, 1982.

§ 448.2 Aids to navigation.

(a) *Lateral system.* Prior to establishing a lateral system of marking on any waterway, a base or outlet and a source or head of navigation shall be first established thereon. Upon waters which have no singular inlet or outlet, arbitrary assumptions may be made to establish one location as the base or outlet and another as the source or head of navigation.

(b) *Starboard side.* When proceeding from the base or outlet towards the source or head of navigation, red navigation aids shall mark the starboard or right side of the channel, and boats proceeding towards the head of navigation shall keep such aids on their starboard or right side. All such navigation aids shall conform to the following general specifications:

(1) Color. Signal red.

(2) Numbering. Starting at the base or outlet and ending at the head or inlet, even-numbered buoys only shall be used to mark the right or starboard side of the channel, and from such starting point shall advance in even numerical progression to the source or head of navigation. Numbering requirements shall be at the discretion of the commissioner.

(3) Lighting. Red flashing lights may be installed and shall conform to light characteristics as specified by the commissioner depending upon the location of the navigation aid. Unlighted aids shall be equipped with red or white reflective material on the uppermost part of the aid. The type and extent of reflective material must be approved by the commissioner.

(4) Shape. Spar, can, nun or structural shapes may be used. Shape shall have no navigational significance.

(5) Construction. Types of construction shall be approved on an individual basis considering the location of the aid and other factors.

(c) *Port side.* When proceeding from the base or outlet towards the source or head of navigation, black navigation aids shall mark the port or left side of the channel, and boats proceeding toward the head of navigation shall keep such aids on their port or left side. All such navigation aids shall conform to the following specifications:

(1) Color. Black.

(2) Numbering. Starting at the base or outlet and ending at the head or inlet, odd-numbered buoys only shall be used to mark the left or port side of the channel, and from such starting point shall advance in odd numerical progression to the source or head of navigation. Numbering requirements shall be at the discretion of the commissioner.

(3) Lighting. Flashing green lights may be installed and shall conform to light characteristics as specified by the commissioner depending upon the location of the navigation aid. Unlighted aids shall be equipped with green or white reflective material on the uppermost part of the aid. The type and extent of reflective material must be approved by the commissioner.

(4) Shape. Spar, can or structural shapes may be used. Shape shall have no navigational significance.

(5) Construction. Types of construction shall be approved on an individual basis considering the location of the aid and other factors.

(d) *Federal lateral system.* The State navigation aid system may be further supplemented by the use of aids included in the Federal lateral system, such as midchannel and junction buoys. When such additional aids are used, they shall have the same significance as established in the Federal lateral system of buoyage. Aids placed on navigable waters of the United States shall be in accord with current Federal regulations.

(e) *General obstruction marker.* A general obstruction marker shall have no lateral significance and may be used in place of, or in addition to, the aids in the lateral system. This aid may be used to mark obstructions projecting from shore or wherever found in otherwise navigable waters. When this aid is located near shore, boats shall not pass between the aid and the shore. One or more aids shall be used to mark obstructions which are not in close proximity to shore, or where navigable channels exist between the obstruction and the shore, depending upon the size and character of the obstruction. In every case, there shall be a sufficient number of aids installed to accurately indicate the extent of the obstruction. Boats shall stay clear of areas in which these aids are installed, and shall not pass between such navigation aids when they are located close together. General obstruction markers shall conform to the following specifications:

(1) Shape. Can, at least 1 ½ feet from waterline to top of buoy if floating, or if can is fixed on a stanchion, it must be at least one foot in height.

(2) Color. The upper one fourth of the aid and the lower one fourth of the aid shall be international orange in color. The bottom stripe of orange shall show at least three inches above the waterline. The center section shall be white.

(3) Lighting. Flashing white lights may be installed and shall conform to light characteristics as specified by the commissioner, depending upon the location of the navigation aid and other factors. Unlighted aids shall be equipped with orange or white reflective material on the uppermost part of the aid. The type and extent of reflective material must be approved by the commissioner.

(4) Symbol. In the center of the white section, equally spaced, on not less than two sides of the buoy, there shall be a symbol in the shape of a diamond, to be of a good proportion and to cover an area of at least three fourths of the height of the white section. The symbol shall be at least one inch in thickness and painted international orange in color and, in the center thereof, running horizontally, there shall be printed in block form the word DANGER. The letters shall be black in color, and of good proportion in relation to the size of the symbol.

(5) Numbering. Since this aid has no lateral significance, no numbering is required. However, a letter, or a letter followed by a number, may be used to identify the location of the aid on a chart.

(6) Construction. Types of construction shall be approved on an individual basis, considering the location of the aid and other factors.

(f) Supplementary obstruction markers may be used to enhance the effectiveness of one or more general obstruction markers. Supplementary obstruction markers shall conform to the following specifications:

(1) Shape. Spar or cylindrical, at least 1 ½ feet from waterline to top of buoy if floating, or if spar or cylinder is fixed on a stanchion, it must be at least one foot in height and the bottom of the shape at least three feet above the waterline.

(2) Color. White with two-inch wide horizontal international orange stripes showing six inches of white in between such orange stripes, and showing at least two of such stripes above the waterline.

(3) Lighting. Lighting and/or reflective material shall conform to the rules and regulations for general obstruction markers, paragraph (e)(3) of this section.

(4) Symbol. No symbol is required, but if a symbol is used it shall conform to the rules and regulations for general obstruction markers, paragraph (e)(4) of this section.

(5) Numbering. Same as general obstruction markers, paragraph (e)(5) of this section.

(6) Construction. Same as general obstruction markers, paragraph (e)(6) of this section.

Historical Note

Sec. added by renum. 354.2, Title 6, filed Sept. 1971; renum. 446.22, new added by renum. 449.2, filed Dec. 1971.

§ 448.3 Special anchorage areas.

(a) *Special anchorage area designation.* (1) Pursuant to the provisions of section 43 of the Navigation Law, the commissioner may, by rule, regulation or order, designate such areas as he may deem proper as *special anchorage areas.*

(2) An adjacent upland owner only may make application to the commissioner for a revocable permit to maintain a special anchorage area, without expense to the State, within the limits of his property. The commissioner may approve of the establishment of special anchorage areas if, in his opinion, such area will not be a hazard to navigation.

(3) When authorization in the form of a revocable permit has been duly granted, the special anchorage area shall be deemed lawfully established. If, in the judgment of the commissioner, special anchorage areas authorized by him are found to be improperly maintained, or have become a hazard to navigation, or the reason for their establishment no longer exists, or that the permittee has failed to comply with the conditions of the permit or rules and regulations

contained herein, the commissioner may revoke such permit by causing a written notice to be mailed to the person to whom it was issued, directing the removal of all floating objects contained within such permit area by a specified date. The person to whom such notice is directed shall thereupon remove the floating objects in accordance with such instructions. In case of failure by the person so directed to remove the floating objects within the specified time, the commissioner may cause their removal. The cost and expense of such removal shall be a charge against the person authorized to maintain the area, and the commissioner may bring any action or proceeding against such person to recover the cost of removal of such floating objects.

(4) All such areas when so designated shall be marked in accordance with the specifications contained in this Part.

(b) *Area marking specifications.* The offshore limits of an area shall be marked with lighted buoys and shall mark the exact location indicated in the permit. The shore limits of the area may also be marked with lighted markers placed on stanchions which are higher than the offshore markers. In each case, buoys marking such areas shall meet the following specifications:

(1) Color. White.

(2) Numbering. None—each buoy shall be lettered "SPECIAL ANCHORAGE AREA", in block form of good proportion and colored black. The lettering shall be on two sides of the buoy.

(3) Lighting. Yellow flashing lights shall be installed and must conform to specifications made by the commissioner depending upon location and other factors.

(4) Shape. Structural.

(5) Construction. Types of construction shall be approved on an individual basis, considering the location and other factors. However, all buoys must be so designed that the light will be at least three feet above the waterline.

(c) *Moorings in anchorage area.* Moorings may be placed within the limits of a special anchorage area in such a manner so as to allow each moored vessel to swing free with wind or current, and with enough clearance to avoid contact with any other moored vessel. At no time may a vessel or part thereof extend outside the limits of the anchorage area. Vessels of less than 65 feet in length when anchored in a special anchorage area are not required to display anchor lights at night.

Historical Note

Sec. added by renum. 354.3, Title 6, filed Sept. 1971; renum. 446.23, new added by renum. 449.3, filed Dec. 1971; amd. filed May 7, 1982 eff. May 7, 1982.

§ 448.4 Floating objects.

The commissioner may authorize, through the issuance of a revocable permit, the placing in the navigable waters of the State, mooring buoys, bathing beach markers, swimming floats, speed zone markers, or any other floating object having no navigational significance, if, in his opinion, the placing of such floating object will not be a hazard to navigation. Any person who may desire to place such floating objects at his own cost and expense can make application, therefore, to the commissioner and submit a map suitable for reproduction showing the proposed location of such floating objects with their color and meaning. Only after authorization has been granted and in accordance therewith may such floating objects be lawfully placed. If, in the judgment of the commissioner, floating objects authorized by him are found to be improperly placed or that the reason for their placement no longer exists or that such objects have become a hazard to navigation, he may revoke the permit and direct that the floating objects be removed within a specified time. In case of failure by the person so directed to remove the floating objects within the specified time, the commissioner may cause their removal. The cost and expense of such removal shall be a charge against the person authorized to place the floating objects and the commissioner may bring any action or proceeding against such person to recover the cost of removal of such floating objects. Each floating object lawfully placed shall bear in a conspicuous

place and in legible condition the letters "SCD". All floating objects shall conform to the specifications contained herein.

(a) All floating objects having no navigational, informational or regulatory purposes such as swimming and diving floats, ski jumps, etc., shall be painted white and equipped with white reflector tape in such a manner that it can be seen from any direction. If such objects are authorized for placement in excess of 100 feet from shore, they must be equipped with a fixed white light to show all around the horizon for a distance of at least one-half mile.

(b) *Mooring buoys.* All mooring buoys shall meet the following minimum specifications:

(1) *Size.* At least one cubic foot of buoy to be above the waterline.

(2) *Shape.* Any.

(3) *Construction.* Any light self buoyant material.

(4) *Lighting.* None required. However, every buoy must be equipped with a one-inch strip of reflector tape all around the upper part.

(5) *Color.* All white with a one-inch blue stripe all around the buoy horizontally, above the waterline.

(c) *Floating object placement by adjacent upland owners.* Adjacent upland owners may place one mooring buoy and one swimming float of not more than 100 square feet of surface area in the waters adjacent to and within the boundaries of their shoreline, provided, however, that no floating object and no vessel or part thereof which is secured to a mooring buoy shall at any time extend more than 100 feet from shore and further provided that no floating object may be placed in a navigable channel or in any location in which it will interfere with free and safe navigation or free access to another person's property. The commissioner shall have the right to remove or alter the location of any such buoy or float in the interest of navigation.

Historical Note

Sec. added by renum. 354.4, Title 6, Sept., 1971; renum. 446.24; new added by renum. 449.4, Dec., 1971.

§ 448.5 Special markers.

(a) *Permits.* The commissioner may authorize the placing of special markers in the navigable waters of the State through the issuance of revocable permits as provided in section 448.4 of this Part.

(b) *General specifications.* All special markers shall conform to the following general specifications:

(1) *Shape.* Can, at least one and one-half feet from waterline to top of buoy if floating, if fixed on a stanchion, the can must be at least one foot in length and diameter and the bottom of the can shall be not less than three feet above the waterline.

(2) *Color.* Upper one fourth of the marker and the lower one fourth of the marker shall be international orange in color. The bottom stripe of orange shall show at least three inches above the waterline. The center section shall be white.

(3) *Lighting.* Fixed white lights may be installed and shall conform to light characteristics as specified by the commissioner depending upon the location of the marker and other factors. Unlighted markers shall be equipped with orange or white reflective material on the uppermost part of the aid. The type and extent of reflective material must be approved by the commissioner.

(4) *Numbering.* A letter of the alphabet or a letter followed by a number may be used to identify the location of a special marker on a chart. Such letter or letter and number may be placed on the white section of the buoy.

(5) *Construction.* Types of construction shall be approved on an individual basis considering the location of the marker and other factors. However, all floating markers shall be of light materials which are entirely self buoyant.

(6) *Symbol specifications.* All symbols shall be in the center of the white section, equally spaced, on not less than two sides of the marker. The symbol shall cover an area of at least three-fourths of the height of the white section. The symbol shall be at least one inch thick and international orange in color. All lettering on the marker shall be black in color and in block form, running horizontally and shall be of good proportion in relation to the size of the symbol.

(c) *Symbol significance.* (1) *Diamond (or diamond with cross).* Shall be used to warn of possible danger to the boater or to others. It shall be used to mark bathing areas or to otherwise prohibit the entry of boats to any area. Words may be placed on the marker to further define its significance and such words shall be specified by the commissioner depending upon the location and use of the marker.

(2) *Circle.* Shall be used to indicate the existence of regulation, control or zoning which is authorized by law or duly promulgated rules and regulations. Words may be placed within the symbol to further define its significance and such words shall be specified by the commissioner depending upon the location and use of the marker.

(3) *Rectangle or square.* Shall be used to convey useful information which has no navigational significance or bearing upon the regulation or control of boats. Words may be placed within the symbol to further define its significance and such words shall be specified by the commissioner depending upon the location and use of the marker.

Historical Note

Sec. added by renum. 354.5, Title 6, Sept., 1971; renum. 446.25; new added by renum. 449.5, Dec., 1971.

§ 448.6 Shore signs regulating navigation.

All signs placed on shore which shall prohibit, zone, control or regulate navigation shall display the same color, symbol and lettering in good proportion as required on special marker buoys of the same significance.

Historical Note

Sec. added by renum. 449.6, Dec., 1971.

§ 448.7 Fishing buoys.

(a) *Placement.* No person shall place a fishing buoy in the navigable waters of the State except in areas within lakes which are listed in subdivision (e) hereof. Written permission from the commissioner shall not be required for placing fishing buoys when such buoys are constructed, moored, marked, and identified in accordance with these rules and are placed within the limits of authorized areas as set forth in subdivision (e) hereof.

(b) *Buoy construction.* (1) All fishing buoys shall be constructed of a light plastic material such as polyesterene or polyurethane. They shall be white in color with a one-inch black stripe running horizontally around the center of the buoy. Every buoy shall be equipped with a one-inch strip of white reflector tape running horizontally all around the uppermost part of the buoy.

(2) The buoy may be of any shape but shall be not less than one cubic foot nor more than two cubic feet in area above the waterline.

(3) The buoy shall be equipped with an eye or other device to secure it to ground tackle.

(c) *Ground tackle.* The line securing the buoy to the anchor shall be not less than three-eighths inches polyesterene or nylon or one-half inch manila or sisal. A weight shall be attached to the anchor line not less than five feet nor more than 10 feet below the buoy. Such weight shall be of any suitable material and shall keep the upper portion of the line perpendicular at all times.

(d) *Identifications.* A fishing buoy shall at all times bear in legible block lettering the name and address of the owner.

(e) *Authorized areas.* Fishing buoys may be placed in the following navigable waters of the State and shall not be placed in any water not listed herein:

CLINTON COUNTY
- Chazy Lake
- Upper Chateaugay Lake
- Taylor Pond

ESSEX COUNTY
- Bigsby Pond
- Crane Pond
- Eagle Lake
- Gooseneck Pond
- Warm Pond
- Mirror Lake
- Moose Pond
- Paradox Lake
- Placid Lake
- Schroon Lake

FRANKLIN COUNTY
- Big Pine Pond
- Clear Pond
- Clear Lake
- Colby Lake
- Deer Pond
- Follensby Clear
- Gull Pond
- Hoel Pond
- Kushaqua, Lake
- Kiwassa Lake
- Ledge Pond
- Little Clear Pond
- Little Green Pond
- Long Pond
- Loon Lake
- Lower Chateaugay Lake
- Lower St. Regis Lake
- Lower Saranac Lake
- Meacham Lake
- Middle Saranac Lake
- Polliwog Pond
- Rainbow Lake
- Upper St. Regis Lake
- Upper Saranac Lake
- Tupper Lake

FULTON COUNTY
- Canada Lake
- Caroga Lake

HAMILTON COUNTY
- Eighth Lake (Fulton Chain)
- Fourth Lake (Fulton Chain)
- Indian Lake
- Lewey Lake
- Piseco Lake
- Raquette Lake
- Seventh Lake (Fulton Chain)
- South Pond

HERKIMER COUNTY
- Fourth Lake (Fulton Chain)
- South Lake
- Third Lake (Fulton Chain)

JEFFERSON COUNTY
- Lake of the Woods
- Millsite Lake

LEWIS COUNTY
- Brantingham Lake

OTSEGO COUNTY
- Otsego Lake

ST. LAWRENCE COUNTY
- Gull Pond
- Tupper Lake

WARREN COUNTY
- Trout Lake

(f) *Navigation obstructions.* No fishing buoy may be placed in a navigable channel or in any location in which it will interfere with free and safe navigation or free access to another person's property. For the purpose of these rules, navigable channels shall mean areas in which boats are restricted in operation due to shoal water, obstructions, passage between points of land, areas in which navigation aids are located or any characteristic of a waterway which may restrict navigation to narrow passages.

(g) *Removal by owner.* It shall be the duty of the owner of a fishing buoy to remove said buoy and ground tackle from the water prior to the formation of ice upon said water.

(h) *Removal by the commissioner.* In the interest of free and safe navigation, the commissioner may cause the removal of any fishing buoy which is not lawfully placed.

Historical Note

Sec. added by renum. 449.7, Dec., 1971.

§ 448.8 Penalty.

A violation of this Part shall constitute an offense punishable by a fine of not to exceed $50.

Historical Note

Sec. added by renum. 449.8, Dec., 1971.

§ 448.9 Diver regulations and use of diver flags.

(a) A diver's flag shall be flown when any individual is diving alone or in the company of others.

(b) The diver's flag shall be red, square or rectangular in shape, of a minimum of at least 12 inches by 12 inches with a white diagonal stripe of not less than three inches wide and not more than three inches wide.

(c) The flag shall be so constructed or of such material as to maintain an altitude perpendicular to the mast in light wind conditions to provide optimum visibility.

(d) All divers are required to surface within 100 feet of the marker.

(e) All boats shall remain at least 100 feet from the flag in all directions.

(f) All diver's flags used shall be positioned on a boat or float so as to fly at about two feet above the surface of the water.

(g) All divers when diving alone shall be attached to the flag or float by an easily removed or easily broken line so that when they are swimming beneath the water, the float and flag will accompany them.

(h) A diver need not be attached to a flag or float when he is assisted by surface personnel in a vessel.

Historical Note

Sec. added, filed Nov. 21, 1972 eff. Nov. 17, 1972.

PART 449

EQUIPMENT TO BE CARRIED ON PUBLIC VESSELS

(Statutory authority: Navigation Law, § 67)

Sec.

449.1 Definitions
449.2 Application of rules
449.3 Equipment required

Historical Note

Part (§§449.1—449.8) added by renum. Part 355 (§§ 355.1—355.8), Title 6, Sept., 1971; renum. Part 448 (§§ 448.1—448.8); new added by renum. (§§450.1—450.3), Dec., 1971.

§ 449.1 Definitions.

The following terms when used in this Part, unless otherwise expressly stated, shall be deemed to mean and include:

(a) *Portable fire extinguishers; classification.* (1) A *class B-1* extinguisher shall mean the foam type with a minimum charge of one and one-fourth gallons, the dry chemical type with a minimum charge of two pounds or the carbon dioxide type with a minimum charge of four pounds.

(2) *A class B-2* extinguisher shall mean the foam type with a minimum charge of two and one-half gallons, the dry chemical type with a minimum charge of 10 pounds or the carbon dioxide type with a minimum charge of 15 pounds.

(b) *Fixed fire extinguishing systems.* Fixed fire extinguishing systems, hereinafter referred to as "fixed systems", shall mean total flooding systems using carbon dioxide gas as the extinguishing agent and having components fixed in position. The operation of the fixed system may be either manual, automatic or a combination of manual and automatic and must be approved by the United States Coast Guard for marine use. Each system shall be of such capacity to provide one pound of CO_2 gas for each 14 cubic feet of protected area. The inspector shall specify the size of the fixed system re-required [*sic*], the location of cylinders and components and the type of control. Fixed systems shall be required equipment on inboard motor boats and on outboard motor boats which have installed tanks and enclosed spaces, when such boats are used for carrying passengers. In cases where the construction of a vessel or the location of engines and tanks are mainly exposed to the open atmosphere, thus making the installation of a fixed system impractical, the inspector may omit the fixed system requirement and add to the portable extinguisher requirement, if deemed necessary.

(c) *Ventilation.* Ventilation shall mean the induction of a directed current of air by natural or mechanical means as opposed to venting which only provides openings for escape without provision for induction. Induction as used above means the intake of air from the outside which shall be directed to and through the length of the compartment and then released outside again. Any compartment or space in which an engine or fuel tank is located, particularly the lower portion of bilges, shall be provided with ventilation capable of preventing and effectively removing any accumulation of flammable or explosive vapor.

(1) *Natural ventilation* shall mean ventilation induced by the installation of permanently open and unobstructed inlet and outlet ventilation ducts, extending to bilges, with two ducts serving as inlets leading to the wings at one end of the engine compartment and/or fuel tank space and two ducts serving as outlets from the wings at the opposite end. The aggregate inlet area and the aggregate outlet area should be proportioned approximately to the beam of the boat, with two square inches of aggregate inlet or outlet duct area per foot of beam as the minimum. Where engines and/or fuel tanks are not in closed compartments, at least one ventilating duct shall be installed in the fore part of the boat and one in the after part. In the case of completely open boat construction using outboard motors and portable fuel tanks, no ventilation ducts are required.

(2) *Mechanical ventilation* shall mean ventilation induced by the installation of a power exhaust blower, in addition to the minimum requirement for natural ventilation, the motor of which shall be completely enclosed and sparkproof and shall be installed outside of ducts and as high above the bilge as possible. The exhaust blower shall be of such size as to exhaust the total air capacity of the compartment in a period of one minute.

(d) *Life preservers.* All life preservers used on public vessels shall be of jacket design, containing pads of buoyant materials consisting of balsa wood, cork, vinyl covered kapok, or vinyl covered fiberous glass inserted in a cloth covering which shall be fitted with straps or ties so that the life preserver can be securely held to the human body. All life preservers manufactured after 1949 shall be India orange in color, except that white colored life preservers which have been in continuous use are approved only if in good condition. Re-covering of life preservers is not permitted. In addition, all life preservers used on public vessels shall be of the commercial type approved by the United States Coast Guard for use on vessels carrying passengers for hire. Limited United States Coast Guard standards for life vests, buoyant cushions, etc. are not approved.

(e) *Inboard motor boats.* For the purposes of this Part, inboard motor boats shall mean all vessels with permanently installed engines and/or fuel tanks using gasoline or diesel oil as a fuel supply, or vessels having enclosed bilge, engine and/or fuel tank spaces using gasoline or diesel oil as a fuel supply.

Historical Note

Sec. added by renum. 355.1, Title 6, Sept., 1971; renum. 448.1; new added by renum. 450.1, Dec., 1971.

§ 449.2 Application of rules.

(a) All vessels certified as public vessels shall be equipped as herein specified after January 1, 1963.

(b) Special consideration may be given to departures from the specific requirements of this Part when it can be shown that special circumstances or arrangements warrant such departures.

Historical Note

Sec. added by renum. 355.2, Title 6, Sept., 1971; renum. 488.2, new added be renum. 450.2, Dec., 1971.

§ 449.3 Equipment required.

(a) *Outboard motor boats—Classes "A" and "1".* (1) One life preserver for each passenger and crew member as specified on vessel's "Certificate of Inspection".

(2) One anchor and cable. The anchor and cable shall be of such type or design and strength to hold the vessel secure during conditions of severe weather, characteristic to the waterway upon which the vessel will operate.

(3) One "class B-1" portable fire extinguisher, to be located near the steering station.

(4) Fixed fire extinguishing system (required only if vessel has either enclosed fuel tank space, or a permanently installed fuel tank).

(5) Mechanical horn, or mechanical whistle.

(6) A natural ventilation system shall be installed. The inspector may, in addition, require the installation of a mechanical ventilation system on any vessel if the age, construction, condition, type or location of machinery or tanks indicates that such a system is necessary or if the hull design is such that vapors may be trapped and difficult to remove with natural ventilation.

(7) Navigational lights as required by law for classes A and 1 vessels.

(8) Hand portable bilge pump having a capacity of not less than five gallons per minute.

(b) *Inboard motor boats—classes "A" and "1".* (1) One life preserver for each passenger and crew member as specified on vessel's "Certificate of Inspection".

(2) One anchor and cable. The anchor and cable shall be of such type or design and strength to hold the vessel secure during conditions of severe weather, characteristic to the waterway upon which the vessel will operate.

(3) A United States Coast Guard approved backfire flame arrestor for each carburetor installed, such backfire flame arrestor to be mounted securely on the air intake of each carburetor (gasoline engines only).

(4) Two "class B-1" portable fire extinguishers (if fixed fire extinguishing system is not required), the location of the fire extinguishers to be as follows: one to be mounted near the steering station and one to be mounted near the engine access space.

(5) One "class B-1" portable fire extinguisher, to be located near the steering station, plus a fixed fire extinguishing system.

(6) Mechanical horn, or mechanical whistle.

(7) A natural ventilation system shall be installed. The inspector may, in addition, require the installation of a mechanical ventilation system on any vessel if the age, construction, condition, type or location of machinery or tanks indicates that such a system is necessary or if the hull design is such that vapors may be trapped and difficult to remove with natural ventilation.

(8) Navigational lights as required by law for classes A and 1 vessels.

(9) Hand portable bilge pump, having a capacity of not less than five gallons per minute.

(c) *Motorboats—Class "2".* (1) One life preserver for each passenger and crew member as specified on vessel's "Certificate of Inspection".

(2) One anchor and cable. The anchor and cable shall be of such type or design and strength to hold the vessel secure during conditions of severe weather, characteristic to the waterway upon which the vessel will operate.

(3) Two "class B-1" portable fire extinguishers. One of the extinguishers to be located near the steering station. The other extinguisher to be located as directed by the inspector.

(4) Fixed fire extinguishing system. (Required only if vessel has enclosed engine and/or fuel tank spaces.)

(5) A United States Coast Guard approved backfire flame arrestor for each carburetor installed (except outboard motors). Such backfire flame arrestor to be securely mounted on the air intake of each carburetor (gasoline engines only).

(6) Mechanical horn, or mechanical whistle.

(7) A natural ventilation system shall be installed. The inspector may, in addition, require the installation of a mechanical ventilation system on any vessel if the age, construction, condition, type or location of machinery or tanks indicates that such a system is necessary or if the hull design is such that vapors may be trapped and difficult to remove with natural ventilation.

(8) Navigational lights as required by law for class 2 vessels.

(9) Life floats or other buoyant apparatus as required by law, for not less than 20 per cent of all persons on board (required on vessels of over 50 tons burden navigating one or more miles from shore at any time).

(10) Bell, to be permanently mounted and conveniently located near the steering station.

(11) Power operated bilge pump, plus a hand operated portable bilge pump. Said power operated bilge pump to have a capacity of not less than 10 gallons per minute and may be driven off the main engine or other source of power. Hand portable bilge pump shall have a capacity of not less than five gallons per minute. Power bilge pumps to be fitted with a suitable strainer to prevent clogging of pumps by foreign matter.

(d) *Motor boats—classes "3" and "4".* (1) One life preserver for each passenger and crew member as specified on vessel's "Certificate of Inspection".

(2) One anchor and cable. The anchor and cable shall be of such type or design and strength to hold the vessel secure during conditions of severe weather, characteristic to the waterway upon which the vessel will operate.

(3) A United States Coast Guard approved backfire flame arrestor for each carburetor installed. Such backfire flame arrestor to be securely mounted on the air intake of each carburetor (gasoline engines only).

(4) Sufficient class B-1 or B-2 portable fire extinguishers shall be located as indicated by the inspector at the engine space access, wheel house, galley, crews quarters, passenger spaces or other areas of potential fire hazard. Each extinguisher shall be of such type and size to adequately cover the potential fire hazard.

(5) Fixed fire extinguishing system.

(6) Mechanical horn, or mechanical whistle.

(7) A natural ventilation system shall be installed. The inspector may, in addition, require the installation of a mechanical ventilation system on any vessel if the age, construction, condition, type or location of machinery or tanks indicates that such a system is necessary, or if the hull design is such that vapors may be trapped and difficult to remove with natural ventilation.

(8) Navigational lights as required by law for appropriate class of vessel.

(9) Life floats, or other buoyant apparatus as required by law, for not less than 20 per cent of all persons the vessel is authorized to transport as evidenced by her "Certificate of Inspection". (Required on vessels of over 50 tons burden navigating one or more miles from shore at any time.)

(10) Bell, to be permanently mounted and conveniently located near the main steering station.

(11) A self-priming power bilge pump, permanently connected to the bilge main, with a capacity of not less than 25 gallons per minute. Said bilge pump may be driven off the main engine or other source of power and must be fitted with a suitable strainer to prevent the entry of foreign matter clogging the suction side.

(12) Vessels authorized to carry 100 or more passengers must be equipped with a self-priming power fire pump, permanently connected to the fire main and of such size as to discharge an effective stream from a hose connected to the highest outlet. The power fire pump may be driven off the propulsion engine or other source of power. If of sufficient size, this pump may also be connected to the bilge system provided the suction side is fitted with a suitable strainer to prevent the entry of foreign matter clogging the intake of the pump. There shall be a sufficient number of fire main hydrants, each equipped with a length of hose and so located that any portion of the vessel may be reached with an effective stream of water. The fire hose shall be of such strength as to withstand a pressure of at least 75 pounds to the square inch. The hose shall be in sections of not less than 25 feet and not more than 50 feet in length, with fittings of brass or other corrosion resistant metal. All fire main piping, valves and fittings shall be in accordance with good marine practice and suitable for the purpose intended.

(13) A vessel station bill, setting forth the exact duties of each member of the crew during fire or other emergency. (Required only on vessels with a crew of three or more persons.)

(14) The inspector may require the installation of an approved fixed fire extinguishing system in lieu of, or in addition to, the power fire pump required in paragraph (12) of this subdivision (d).

Historical Note

Sec. added by renum. 355.3, Title 6, Sept., 1971; renum. 448.3; new added by renum. 450.3, Dec., 1971.

§ 449.4

Historical Note

Sec. added by renum. 355.4, Title 6, Sept., 1971; renum. 448.4, Dec., 1971.

§ 449.5

Historical Note

Sec. added by renum. 355.5, Title 6, Sept., 1971; renum. 448.5, Dec., 1971.

§ 449.6

Historical Note

Sec. added by renum. 355.6, Title 6, Sept., 1971; renum. 448.6, Dec., 1971.

§ 449.7

Historical Note

Sec. added by renum. 355.7, Title 6, Sept., 1971; renum. 448.7, Dec., 1971.

§ 449.8

Historical Note

Sec. added by renum. 355.8, Title 6, Sept., 1971; renum. 448.8, Dec., 1971.

PART 450

INSPECTION OF REPORTS AND RECORDS

(Statutory authority: Navigation Law, § 30)

Sec.

450.1 Inspection of records and reports

450.2 Fees for searches and copies of records and reports

Historical Note

Part added by renum. Part 376, filed June 1962; repealed, new (§§ 450.1-450.8) filed May 22, 1970; renum. Part 275, Title 17, new (§§450.1-450.3) added by renum. Part 356, Title 6, filed Sept. 1971; renum. Part 449, new (§§450.1-450.2) added by renum. Part 453, filed Dec. 1971.

§ 450.1 Inspection of records and reports.

Attorneys-at-law, insurance companies, banks, Federal, State or municipal agencies and their paid employees acting within the scope of their employment, and other persons having a necessary and specific interest and need in obtaining accident reports or records relating to vessel registrations required to be filed in the Office of Parks, Recreation and Historic Preservation, Bureau of Marine and Recreational Vehicles may, on forms provided for the purpose, request that a search be made and/or photocopies be made of such record or report and released to them. Nothing contained herein shall require the Office of Parks, Recreation and Historic Preservation to divulge or release information pertaining to reports or records, the disclosure of which might interfere with any investigation or prosecution by any law enforcement agency, district attorney, special commission or grand jury empowered under law to conduct such investigation or prosecution.

Historical Note

Sec. added by renum. 376.1, filed June 1962; repealed, new filed May 22, 1970; renum. 275.1, Title 17, new added by renum. 356.1, Title 6, filed Sept. 1971; renum. 449.1, new added by renum. 453.1, filed Dec. 1971; amd. filed May 7, 1982 eff. May 7, 1982.

§ 450.2 Fees for searches and copies of records and reports.

(a) *Fee for searches.* The fee for a search shall be 50 cents multiplied by the number of files necessarily searched, the number of names or numbers against which the search is made and the number of documents for which the search is made. If a certificate showing the result of a search is required, there shall be an additional fee of 50 cents.

(b) *Fees for copies of records and reports.* The fees for copies of records and reports, other than accident reports, shall be as follows: photostatic copies, $1 per page; accident report, $3.50. If certification of a record or report is required, there shall be an additional fee of 50 cents.

Historical Note

Sec. added by renum. 376.2, filed June 1962; repealed, new filed May 22, 1970; renum. 275.2, Title 17, new added by renum. 356.2, Title 6, filed Sept. 1971; renum. 449.2, new added by renum. 453.2, filed Dec. 1971.

§ 450.3

Historical Note

Sec. added by renum. 376.3, filed June 1962; repealed, new filed May 22, 1970; renum. 275.3, Title 17, new added by renum. 356.3, Title 6, filed Sept. 1971; renum. 449.3, filed Dec. 1971.

§ 450.4

Historical Note

Sec. added by renum. 376.4, filed June 1962; repealed, new filed May 22, 1970; renum. 275.4, Title 17, filed Sept. 1971.

§ 450.5-450.6

Historical Note

Secs. filed May 22, 1970; renum. 275.5-275.6, Title 17, filed Sept. 1971.

§ 450.7-450.8

Historical Note

Secs. added by renum. 376.7-376.8, filed June 1962; repealed, new filed May 22, 1970; renum. 275.7-275.8, Title 17, filed Sept. 1971.

§ 450.9

Historical Note

Sec. added by renum. 376.9, filed June 1962; repealed, filed May 22, 1970 eff. June 1, 1970.

§ 450.13-450.16

Historical Note

Secs. added by renum. 376.13-376.16, filed June 1962; repealed, filed May 22, 1970 eff. June 1, 1970.

§ 450.20-450.24

Historical Note

Secs. added by renum. 376.20-376.24, filed June 1962; repealed, filed May 22, 1970 eff. June 1, 1970.

PART 451

BOATING SAFETY COURSE

(Statutory authority: Navigation Law, §§ 77, 78, 79)

Sec.

451.0 Authority and purpose
451.1 Definitions
451.2 Requirements for obtaining a boating safety certificate
451.3 Course content
451.4 Instructor certification
451.5 Issuance of boating safety certificate
451.6 Boating safety certificate
451.7 Duplicate boating safety certificate
451.8 Exemption

Historical Note

Part (§§ 451.1-451.9) filed Feb. 9, 1979; amds. filed: Dec. 7, 1999 as emergency measure, expired 90 days after filing; March 7, 2000 as emergency measure; May 4, 2000 as emergency measure; June 6, 2000 eff. June 21, 2000. Amended Part title, statutory authority.

§ 451.0 Authority and purpose.

These regulations implement part 5 of article 4 of the Navigation Law. The part provides for a boating safety educational program which will meet the legislative goals of providing comprehensive boating safety instruction for youthful boaters and boating safety instruction for adult operators of personal watercraft.

Historical Note

Sec. filed: Dec. 7, 1999 as emergency measure, expired 90 days after filing; March 7, 2000 as emergency measure; May 4, 2000 as emergency measure; June 6, 2000 eff. June 21, 2000.

§ 451.1 Definitions.

Whenever used in this Part, the following terms shall mean and include the meanings expressly set forth in this section, unless otherwise expressly defined.

(a) *Commissioner* shall mean the Commissioner of Parks, Recreation and Historic Preservation acting through a duly authorized representative.

(b) *Instructor* shall mean a person who has been certified by the commissioner as being qualified to teach the New York State boating safety course.

(c) *Boating safety certificate* shall mean the certificate issued by the commissioner evidencing that the holder thereof has successfully completed an approved course of instruction in boating safety which:

(1) satisfies the requirements of subdivision one of section 49 of the Navigation Law for the operation of a vessel by a person under the age of 18 years of age; and

(2) satisfies the requirements of subdivision one-a of section 49 of the Navigation Law with respect to the operation of a personal watercraft or a specialty prop-craft.

Historical Note

Sec. filed Feb. 9, 1979; amds. filed: May 7, 1982; Dec. 7, 1999 as emergency measure, expired 90 days after filing; March 7, 2000 as emergency measure; May 4, 2000 as emergency measure; June 6, 2000 eff. June 21, 2000. Amended (b)-(c).

§ 451.2 Requirements for obtaining a boating safety certificate.

Applicants for a boating safety certificate shall meet the following requirements:

(a) be 10 years of age at the time of the final examination for a boating safety course satisfactory completion of which is required for such a certificate;

(b) attend all sessions of the boating safety course;

(c) achieve a score of 75 percent on the final examination; and

(d) satisfactorily complete the boating safety course workbook.

Historical Note

Sec. filed Feb. 9, 1979; amds. filed: Dec. 7, 1999 as emergency measure, expired 90 days after filing; March 7, 2000 as emergency measure; May 4, 2000 as emergency measure; June 6, 2000 eff. June 21, 2000.

§ 451.3 Course content.

New York State boating safety course shall be:

(a) a training program prepared and published by the commissioner as authorized in section 78 of the Navigation Law, comprised of a minimum of eight hours of classroom instruction and which includes personal watercraft safety instruction by a duly certified boating instructor; or

(b) a course approved by the commissioner consisting of a minimum of eight hours of classroom instruction which includes personal watercraft safety instruction and meets the requirements of the National Association of State Boating Law Administrators (NASBLA).

Historical Note

Sec. filed Feb. 9, 1979; amds. filed: Dec. 7, 1999 as emergency measure, expired 90 days after filing; March 7, 2000 as emergency measure; May 4, 2000 as emergency measure; June 6, 2000 eff. June 21, 2000.

§ 451.4 Instructor certification.

(a) *Initial certification.* (1) In order to qualify for certification as a boating safety instructor, an applicant shall:

(i) be at least 18 years of age;

(ii) successfully complete a New York State boating safety course provided for in section 451.3 of this Part. This requirement may be waived if the applicant:

(*a*) presents documents establishing any of the following:

(*1*) completion of the New York State Marine Law Enforcement Basic Course;

(*2*) membership in good standing of the United States Coast Guard Auxiliary; or

(*3*) membership in good standing of the U.S. Power Squadrons; and

(*b*) satisfactorily completes a standard written or oral examination establishing that the applicant is knowledgeable with regard to New York's boating laws including those applicable to personal watercraft; and

(iii) demonstrate the ability to teach boating safety instruction by one of the following:

(*a*) assisting in teaching at least two boating safety courses with an instructor certified under this Part and receiving a satisfactory recommendation from that instructor;

(*b*) completing an instructor orientation program presented by the office;

(*c*) presenting evidence of certification as a licensed teacher by the Board of Regents or by the State's applicable authority if licensed to teach in another state;

(*d*) presenting evidence of completion of an instructor development training for police/peace officers;

(*e*) presenting evidence of current certification as an instructor for the U.S. Coast Guard Auxiliary or U.S. Power Squadrons;

(*f*) having completed an instructor training program determined by the office to be equivalent to one of the above; or

(*g*) demonstrating to the satisfaction of the office equivalent training or experience as a teacher or instructor;

(iv) not have any convictions or charges pending at the time of application for any crime involving violence, dishonesty, deceit, indecency, degeneracy, moral turpitude, or for crimes relating to boating while intoxicated.

(2) A newly certified instructor shall be subject to a minimum probationary period of one year pending a classroom audit of his or her performance conducted by or at the direction of the office.

(3) A person who was certified to teach the New York State Young Boater's Safety Course and who taught at least one course in the two years prior to December 1, 1999 is exempt from the requirements of this subdivision.

(b) *Instructor recertification.* Instructors will be recertified every two years. Instructors certified prior to December 1, 1999 must be recertified by January 1, 2002. To qualify for recertification, during the previous two years the applicant shall have:

(1) attended all required instructor seminars;

(2) taught at least one course; and

(3) received a satisfactory evaluation if a course audit was conducted since the instructor's last certification.

(c) *Removal/denial of instructor certification.* (1) The office may deny certification to an instructor applicant or may withdraw a certification which has been previously granted to any person who:

(i) has made a material false statement or concealed a material fact in connection with his/her application;

(ii) after reasonable warning, fails to follow the policies and procedures outlined in the instructor policy and procedure manual developed by the office;

(iii) is convicted of a crime or has charges pending against him or her for a crime as described in subparagraph (a)(1)(iv) of this section;

(iv) intentionally gives faulty or erroneous information concerning a matter within the course content to his or her students or to the public; or

(v) in the reasonable opinion of the office, displays poor judgment or inappropriate behavior in dealing with students.

(2) Notice of the office's intent to deny or remove certification will be given to the instructor or instructor applicant in writing, sent by certified mail return receipt requested, to his or her last known address. Notice will include the reasons for the office's intent to remove or deny instructor certification.

(3) Any such decision to deny or remove certification shall not become final until the instructor or instructor applicant has an opportunity to be heard. The instructor or instructor applicant must request a hearing within 10 days of receipt of notice of the office's intent to deny or remove certification. The decision to deny or remove certification shall become final 10 days after service of the notice of intent unless the applicant requests a hearing. Requests for hearings must be sent certified mail, return receipt requested to the Director of Marine and Recreational Vehicles, Attn: Boating Education, Office of Parks, Recreation and Historic Preservation, Agency Building 1, Empire State Plaza, Albany, NY 12238.

(4) The office shall have the ability to suspend any instructor certification immediately for a period not to exceed 30 days pending a hearing when there is reasonable cause to believe that the health and safety of the public would be jeopardized by the continued certification of any individual as a boating safety instructor. If any hearing which is scheduled to consider the suspension or removal of the instructor's certification is adjourned at the request of the instructor, or by reason of any act or omission of the instructor or on the instructor's behalf, such suspension may be continued for the additional period of such adjournment.

Historical Note

Sec. filed Feb. 9, 1979; repealed, new filed: Dec. 7, 1999 as emergency measure, expired 90 days after filing; March 7, 2000 as emergency measure; May 4, 2000 as emergency measure; June 6, 2000 eff. June 21, 2000.

§ 451.5 Issuance of boating safety certificate.

(a) *Temporary boating safety certificate.* (1) The office shall establish a student record form which shall include an application for a boating safety certificate and a temporary boating safety certificate. During the boating safety course the student will be asked to provide required information for the student record form.

(2) Upon satisfactory completion of the boating safety course, the instructor will issue the temporary boating safety certificate to the student and notify the office that the student has satisfactorily completed the course.

(b) *Boating safety certificate.* (1) Youthful operator. There is no fee for a permanent boating safety certificate for a person under 18 years of age. Upon receiving notice from the instructor that the youthful operator has successfully completed the boating safety course, the office will issue a permanent boating safety certificate to the student.

(2) Adult operator. There shall be a fee of $10 for a permanent boating safety certificate for a person 18 years of age or older. After completing the boating safety course and receiving a temporary boating safety certificate, it shall be the responsibility of the adult operator to apply for a permanent boating safety certificate. The adult operator should follow the directions contained in the student record form to submit the application for the permanent boating safety certificate and the $10 fee to the office.

Historical Note

Sec. filed Feb. 9, 1979; repealed, new filed: Dec. 7, 1999 as emergency measure, expired 90 days after filing; March 7, 2000 as emergency measure; May 4, 2000 as emergency measure; June 6, 2000 eff. June 21, 2000.

§ 451.6 Boating safety certificate.

(a) Boating safety certificate shall be a wallet-sized, prenumbered card, and shall include but not be limited to the following:

(1) name of youthful operator;

(2) address of youthful operator (street, city, county, state);

(3) date of birth;

(4) sex, color of eyes, color of hair;

(5) name of parent or guardian;

(6) instructor's code number; and

(7) young operator's signature.

(b) After the young operator successfully completes the young boater's safety training course, the instructor shall issue the prenumbered boating safety certificate to the youthful operator.

Historical Note

Sec. filed Feb. 9, 1979 eff. Feb. 13, 1979.

§ 451.7 Duplicate boating safety certificate.

(a) In the event that a boating safety certificate is lost, mutilated or destroyed, the operator may obtain a duplicate boating certificate by making application to the office.

(b) If the applicant is 18 years of age or older, the application for a duplicate certificate shall be accompanied by a fee of $10.

Historical Note

Sec. filed Feb. 9, 1979; amds. filed: Dec. 7, 1999 as emergency measure, expired 90 days after filing; March 7, 2000 as emergency measure; May 4, 2000 as emergency measure; June 6, 2000 eff. June 21, 2000.

§ 451.8 Exemption.

A boat operator who is a resident of another state or country and is the holder of a valid boating safety certificate issued pursuant to the laws of the operator's resident state or country shall be exempt from this Part. However, any boating safety certificate issued by another state or country and used in New York State shall be carried by the operator and made available upon demand by any police or judicial officer.

Historical Note

Sec. filed Feb. 9, 1979; repealed, new added by renum. and amd. 451.9, filed: Dec. 7, 1999 as emergency measure, expired 90 days after filing; March 7, 2000 as emergency measure; May 4, 2000 as emergency measure; June 6, 2000 eff. June 21, 2000.

§ 451.9

Historical Note

Sec. filed Feb. 9, 1999; renum. 451.8, filed: Dec. 7, 1999 as emergency measure, expired 90 days after filing; March 7, 2000 as emergency measure; May 4, 2000 as emergency measure; June 6, 2000 eff. June 21, 2000.