

TITLE 15A – DEPARTMENT OF ENVIRONMENTAL QUALITY

Notice is hereby given in accordance with G.S. 150B-21.2 that the Wildlife Resources Commission intends to amend the rule cited as 15A NCAC 10F .0201.

Link to agency website pursuant to G.S. 150B-19.1(c): <https://www.ncwildlife.org/Proposed-Regulations>

Proposed Effective Date: April 1, 2022

Public Hearing:

Date: December 16, 2021

Time: 2:00 p.m.

Location: Register online: https://ncwildlife-org.zoomgov.com/webinar/register/WN_rQEorCCJTgqu3NHXE1UNZA Webinar ID: 160 707 2608 US: +1 669 254 5252 or 833 568 8864 (Toll Free)

Reason for Proposed Action: *The PFD type code references must be removed to be in compliance with Title 33 of the Code of Federal Regulations, Subpart B Part 175.*

Comments may be submitted to: Rulemaking Coordinator, 1701 Mail Service Center, Raleigh, NC 27699; email regulations@ncwildlife.org

Comment period ends: January 31, 2022

Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.

Fiscal impact. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.

- State funds affected
- Local funds affected
- Substantial economic impact (\geq \$1,000,000)
- Approved by OSBM
- No fiscal note required

CHAPTER 10 - WILDLIFE RESOURCES AND WATER SAFETY

SUBCHAPTER 10F - MOTORBOATS AND WATER SAFETY

SECTION .0200 - SAFETY EQUIPMENT AND ACCIDENT REPORTS

15A NCAC 10F .0201 SAFETY EQUIPMENT

(a) All vessels subject to the rules of this Section shall meet the vessel equipment requirements set forth in G.S. 75A-6(n), 46 CFR 25, and 33 CFR 175. 46 CFR 25 and 33 CFR 175 are incorporated by reference, including subsequent amendments and editions, and can be found free of charge online at www.ecfr.gov. Notwithstanding the federal regulations incorporated in this Paragraph, Paragraphs (b) through (g) shall apply to vessels operating in State waters. To the extent these vessel equipment requirements conflict with the incorporated federal regulations, federal regulations shall supersede any and all State laws or regulations.

(b) Personal flotation devices (PFDs) shall be required as follows:

- (1) No person may operate a vessel unless, for each person on the vessel, at least one ~~Type I, II, or III~~ U.S. Coast Guard approved wearable PFD is on board and readily accessible. Any U.S. Coast Guard approved wearable PFD may be carried to meet the requirement, provided:
 - (A) the approved label for the PFD indicates that the device is approved for the activity for which the vessel is being used; or
 - (B) the PFD is used in accordance with the requirements on the approval label and with the requirements in its owner's manual.
- (2) No person shall operate a vessel 16 feet or more in length unless one ~~type IV~~ U.S. Coast Guard approved throwable PFD is on board and immediately available for use, in addition to the total number of PFDs required in Subparagraph (1) of this Paragraph.
- (3) No person shall operate a vessel while the vessel is underway with any child under 13 years old aboard unless each child is:
 - (A) wearing an appropriate PFD approved by the U.S. Coast Guard;

- (B) below decks; or
- (C) in an enclosed cabin.

This Subparagraph shall not apply to a vessel that is registered as a commercial vessel.

- (4) A Type V PFD may be carried in lieu of any PFD required under Subparagraph (1) of this Paragraph provided:
 - (A) the approval label for the Type V PFD indicates that the device is approved for the activity for which the vessel is being used; or
 - (B) the Type V PFD is used in accordance with the requirements on the approval label and with the requirements in its owner's manual.
- (5)(4) No person shall operate a vessel unless each required PFD is:
 - (A) in serviceable condition;
 - (B) of appropriate size and fit for the intended wearer;
 - (C) United States Coast Guard approved; and
 - (D) legibly marked with its approval number, as specified in 46 CFR 25 Uninspected Vessels, Requirements and 33 CFR 175 Personal Flotation Devices.
- (6)(5) Exemptions shall apply as follows:
 - (A) Canoes and kayaks 16 feet in length and over shall be exempted from the requirements for carriage of the additional ~~Type IV~~ U.S. Coast Guard approved throwable PFD as specified in Subparagraph (b)(2) of this Rule.
 - (B) Sailboards, surfboards, tubes, swimming rafts, inflatable toys, and similar devices used as water toys or swimming aids shall be exempted from the requirements for carriage of any PFD required under this Paragraph.
 - (C) Manually propelled vessels such as racing shells, rowing sculls, racing canoes, and racing kayaks that are recognized by national and international racing associations for use in competitive racing, that are not designed to carry any equipment not solely for competitive racing, and in which all occupants with the exception of a coxswain, if one is present, row, scull, or paddle, shall be exempted from the requirements for carriage of any type PFD required under this Paragraph.

(c) Fire Extinguishers shall be required as follows:

- (1) All motorboats shall carry at least the minimum number of USCG-approved hand portable fire extinguishers specified in this Rule if:
 - (A) the motorboat has closed compartments under thwarts and seats in which portable fuel tanks may be stored;
 - (B) the motorboat has double bottoms that are not sealed to the hull or that are not completely filled with flotation material;
 - (C) the motorboat has closed living spaces;
 - (D) the motorboat has closed stowage compartments in which combustible or flammable materials are stowed;
 - (E) the motorboat has permanently installed fuel tanks; or
 - (F) the motorboat is Class 2 or longer.
- (2) Class A and Class 1 Motorboats less than 26 feet in length shall carry one Type B-I extinguisher.
- (3) Class 2 Motorboats shall carry two Type B-I extinguishers.
- (4) Class 3 Motorboats shall carry three Type B-I extinguishers.
- (5) One Type B-II hand held fire extinguisher may be substituted for two B-I hand portable fire extinguishers. A fixed fire extinguishing system installed in the engine compartment shall be deemed equal to one Type B-I hand portable fire extinguisher.

Open Vessels. Vessels less than 26 feet in length, propelled by outboard motors and not carrying passengers for hire, shall not be required to carry portable fire extinguishers if the construction of the vessels will not permit the entrapment of explosive or flammable gases or vapors.

(d) Every engine, except outboard motors, using gasoline as fuel and installed in a vessel shall be equipped with an acceptable means of backfire flame control that meets the requirements of 46 CFR 25 and 33 CFR 175.

(e) Every vessel, except open vessels using liquid of a volatile nature as fuel, shall be equipped with an operable ventilation system as required by 33 CFR 175.201 and 46 CFR 25.40-1, to remove any explosive or flammable gases from the bilges of the engine and fuel tank compartments that meets the requirements of 46 CFR 25 and 33 CFR 175.

(f) Sound devices shall be required as follows:

- (1) Vessels less than 12 meters or 39.4 feet in length shall be equipped with some means of making an efficient sound signal; and
- (2) Vessels equal to or greater than 12 meters or 39.4 feet in length shall be equipped with a whistle and a bell that comply with 33 USC 2033.

(g) Lights. The lights prescribed by this Paragraph shall be exhibited from sunset to sunrise and in fog, mist, falling snow, heavy rainstorms, sandstorms, or any other similar circumstances of restricted visibility. They may be exhibited in all other circumstances when deemed necessary. During such times no other lights shall be exhibited, except those that cannot be mistaken for the lights specified in these Rules, do not impair their visibility or distinctive character, or do not interfere with keeping a proper lookout. Lights shall be required as follows:

- (1) Vessels, other than those vessels described in Subparagraphs (g)(3)-(7) of this Rule, equal to or greater than 12 meters or 39.4 feet but less than 20 meters or 65.6 feet in length shall exhibit:
 - (A) A masthead light forward visible for three miles;
 - (B) Sidelights, green to starboard and red to port, visible for two miles; and
 - (C) A stern light visible for two miles.

- (2) Vessels, other than those vessels described in Subparagraphs (g)(3)-(7) of this Rule, less than 12 meters or 39.4 feet in length shall exhibit:
 - (A) An all-round white light visible for two miles; and
 - (B) Sidelights, green to starboard and red to port, visible for 1 mile.
- (3) Sailing vessels underway that are seven meters or 23 feet in length or greater shall exhibit:
 - (A) A stern light visible for two miles; and
 - (B) Sidelights, green to starboard and red to port, visible for two miles.
- (4) In a sailing vessel less than 20 meters or 65.6 feet in length, the lights prescribed in Subparagraph (3) of this Paragraph may be combined in one lantern carried at or near the top of the mast where it can be best seen.
- (5) A sailing vessel of less than seven meters or 23 feet in length shall, if practicable, exhibit the lights prescribed in Subparagraph (3) or (4) of this Paragraph; if not practicable the vessel shall have ready at hand an electric torch or lighted lantern showing a white light that shall be exhibited in sufficient time to prevent a collision.
- (6) A vessel under oars shall either:
 - (A) exhibit the lights prescribed in Subparagraph (g)(5) of this Rule for sailing vessels; or
 - (B) have ready at hand an electric torch or lighted lantern showing a white light that shall be exhibited in sufficient time to prevent a collision.
- (7) On public waters not subject to the jurisdiction of the United States, vessels propelled by machinery of 10 horsepower or less, in lieu of the foregoing requirements, may carry from one-half hour after sunset to one-half hour before sunrise a white light in the stern or have on board a hand flashlight in good working condition which shall be ready at hand and shall be temporarily displayed in sufficient time to prevent collision. The Subparagraph shall not apply to vessels in waters of this State that are subject to the jurisdiction of the United States.

History Note: Authority G.S. 75A-3; 75A-6; 113-307;
Eff. February 1, 1976;
Amended Eff. November 1, 2013; April 1, 2009; March 1, 2008; April 1, 1999; August 1, 1988; May 1, 1976;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;
Amended Eff. April 1, 2022; November 1, 2018.