

(a)

**STATE POLICE
BOAT SAFETY COURSE**

**Proposed Readoption with Amendments: N.J.A.C.
13:61**

Proposed New Rules: N.J.A.C. 13:61-2.7, 2.8 and 3

Authorized By: Colonel Joseph R. Fuentes, Superintendent, Division of State Police.

Authority: N.J.S.A. 12:7-60.

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

Proposal Number: PRN 2010-182.

Submit written comments by November 6, 2010 to:

Colonel Joseph R. Fuentes, Superintendent
Division of State Police
Box 7068 - River Road
West Trenton, N.J. 08628-0068
Attn: Marine Services Bureau

The agency proposal follows:

Summary

N.J.S.A. 12:7-60 requires that the Superintendent of State Police in the Department of Law and Public Safety shall establish a list of approved boat safety courses, offered by public or private persons or agencies for profit or otherwise and taught by approved boat safety instructors. Approved courses shall provide formal instruction in power vessel handling and safety. The Superintendent may approve a boat safety course upon the initiative of the Superintendent or by application on a form to be created by the Superintendent. The Superintendent shall, pursuant to the "Administrative Procedure Act," P.L. 1968, c. 410 (N.J.S.A. 52:14B-1 et seq.), adopt rules and regulations to implement this section. While developing these rules, the Superintendent of State Police shall consult with the National Association of State Boating Law Administrators, or its successor organization, concerning the provisions of the rules and regulations being adopted pursuant to this [law]. The rules governing boating safety courses at N.J.A.C. 13:61 are scheduled to expire on January 17, 2011, pursuant to N.J.S.A. 52:14B-5.1c. Therefore, the Division of State Police has reviewed the existing rules and has determined that they continue to be necessary, reasonable and proper for the purpose for which they were originally promulgated. The Division of State Police is proposing to amend certain rules in accordance with the Division's statutory responsibility.

The Division proposes to add new definitions pertaining to course clerical administrators and to the term synonymous with the certificate issued upon successful completion of a boating safety course. The Division proposes to require course providers to submit copies of all course materials and to submit the addition or deletion of course instructors. The Division proposes to include new topics in the course content that reflect current statutes. The Division proposes to establish minimum time requirements for completion of the online portion of Internet boat safety courses. The Division proposes to make changes to requirements to re-taking tests. The Division proposes changes to the inspection of records and facilities of approved courses. The Division proposes changes to submission requirements for certificate applications by the course provider. The Division proposes changes to the revocation process for course providers. The Division proposes changes in the qualification and application process for course providers. The Division proposes minor changes to the process of denial of approval for boat safety instructors. The Division proposes changes in the approval process of instructors, as well as changes to the suspension, revocation or denial of applications for approval or re-approval. The Division proposes to add new rules (see Subchapter 3) governing the procedure and conditions for obtaining approval to administer State-approved pre-rental boating safety instruction and the establishment of a list of boat rental businesses that are approved to offer pre-rental boating safety instruction.

The specific sections proposed for amendment in their entirety are further described below.

N.J.A.C. 13:61-1.1 would continue to set forth the purpose of the chapter.

N.J.A.C. 13:61-1.2 contains definitions used in the chapter. The proposed amendment to N.J.A.C. 13:61-1.2 add a definition for "boat safety course clerical administrator," which defines individuals who perform administrative tasks under the authority of an approved boat safety course provider. Individuals performing this function will have access to the New Jersey State Police (NJSP) certificate database and may be required to attend periodic training sessions. Additionally, "boat safety instructor" is proposed for amendment to clarify that the boat safety course must be approved by the Superintendent, rather than the broader term "State of New Jersey," and defines the terms "boat safety certificate" and "temporary boat safety certificate."

N.J.A.C. 13:61-1.3 describes the application procedure for approval of courses. Proposed new N.J.A.C. 13:61-1(a)3 requires that course providers submit a copy of all course materials that will be utilized while providing instruction during an approved boat safety course, including, but not limited to, videos and slide presentations. The proposed amendment to recodified N.J.A.C. 13:61-1.3(a)4 would require that course providers submit requests to add or delete instructors to the Marine Services Bureau (MSB), in writing.

N.J.A.C. 13:61-1.4 describes the course requirements for approval. The proposed amendments to N.J.A.C. 13:61-1.4 include amending the heading to "Course requirements; requirements for approval," and reflect proper codification, as well as increases the topical material required to be covered in an approved boating safety course. The Division proposes to incorporate by reference the National Association of State Boating Law Administrators (NASBLA) standards as published in the 2010 version of the "National Boating Education Standards," as amended and supplemented. The standards may be obtained from the National Association of State Boating Law Administrators, 1500 Leestown Rd, Ste 330, Lexington, KY 40511 or online at www.nasbla.org. Subsection (b) is amended to include additional topics that cover comprehensive information specific to New Jersey. Subsection (d) specifies that topics covered in subsection (a) and (b) shall be covered through in-person instruction and may be supplemented through written homework. Additionally, the Division proposes changes to the time requirements of not less than five hours for completion of the online portion of approved Internet courses, as well as increasing the minimum passing percentage for the course examination to 80 percent. The proposed amendments to this subsection also outline the necessary steps for individuals to take that fail the final closed book exam on the first and second attempt.

N.J.A.C. 13:61-1.5 describes the duration of approval for boating safety instructors. The proposed amendment to subsection (b) adds that if an approved boat safety course provider is also an approved instructor, the course approval will expire three years after the date of the providers criminal history record background check.

N.J.A.C. 13:61-1.6 authorizes the Superintendent or a designee to inspect approved courses to verify compliance with the rules. The Division proposes amendments that delineate the requirements for on-site course inspections, including those courses that are approved to be taught in non-public or private sites for which the instructor or provider do not have authority to grant access. The amendments to this section also define consequences for instructors or providers that fail to meet the specified requirements. Additionally, the amendments to this section create distance limitations of 20 miles for out-of-State boating safety courses and proctored tests for Internet courses administered for the issuance of New Jersey boat safety certificates. Subsection (f) has been added to include the specific reporting requirements, including a minimum timeframe and requisite location, for approved providers of boat safety courses, as well as proctored tests for Internet courses. Subsection (g) specifies the reporting requirements for changes in boat safety course or proctored testing locations. Subsection (h) provides the requirements for reporting of instructor substitutions and/or course or test cancellations to the Marine Services Bureau.

N.J.A.C. 13:61-1.7 describes the procedure for the issuance of boat safety certificates to students who have successfully completed a boat safety course. The Division proposes amendments that would permit the Superintendent to determine the most appropriate means of reporting the names, addresses, etc. of class participants (electronic vs. paper, etc.) to

MSB and to determine the most appropriate way to issue temporary certificates. Additionally, language has been included that places a 30-calendar day requirement for the submission and a 30-calendar day requirement for the dissemination of boat safety certificates. The reporting requirement for undeliverable certificates has also been included, as well as sanctions for providers that fail to meet the requirements of this section.

N.J.A.C. 13:61-1.8 describes the procedure for revocation of approval. The Division proposes amendments to the heading of this section and to the rule text reflect the content more closely, which also includes suspensions and denials of approvals/re-approvals. Additionally, the proposed amendments to this section would address issues, such as the administration and instruction of boating safety courses, by approved instructors and providers, in a manner inconsistent with current New Jersey statutes and rules. Paragraph (a)1 has been included to place responsibility on the course provider to ensure accurate advertisement, printed or otherwise, for boat safety courses. This requirement shall include information pertaining to hours of course, potential homework and the name and phone number of the course provider. Subsection (d) has been added, which requires that in the event that the Superintendent revokes, suspends, denies for approval or re-approval or upon the expiration of the provider's approval, all applications for boat safety certificates, as well as all instructor identification cards shall be forwarded immediately to the Marine Services Bureau.

N.J.A.C. 13:61-1.9 describes the procedure for a hearing in case of a denial or revocation of approval. The Division proposes minor technical amendments to the heading of this section, as well as to subsection (a), consistent with prior amendments.

N.J.A.C. 13:61-1.10 contains the records that must be maintained by providers and the Superintendent.

N.J.A.C. 13:61-2.1 provides that the rules apply to all public and private entities that provide approved boat safety courses for the purpose of issuance of a New Jersey boat safety certificate to students. The Division proposes language that deals with the proctoring of approved Internet courses.

N.J.A.C. 13:61-2.2 will continue to require that all instructors must be approved by the MSB.

N.J.A.C. 13:61-2.3 contains the qualifications for an approved boat safety instructor and the specifics of the application process. The Division proposes amendments that would clarify that an individual holding a United States Coast Guard (USCG) operator's license must also possess a New Jersey boat safety certificate to become an approved boat safety instructor. All certifications must be valid and in force at the time of application. Additionally, subparagraph (a)2iv requires that the certification must be as a boating safety instructor. The Division proposes amendments to N.J.A.C. 13:61(b) to require prospective instructors to not only produce original documentation for viewing by MSB personnel, but will place the burden of providing copies of documentation on the prospective instructor. This proposed amendment will require that copies of documentation be provided by applicants and will eliminate difficulties in procuring copies of the required documentation. Additionally, the Division proposes amendments regarding proof of identification for Instructor ID cards, as approved instructors are issued Instructor ID cards by the Division, it is imperative that prospective instructors be positively identified.

The Division also proposes to allow prospective instructors to substitute years of experience for actual days of operation, as delineated N.J.S.A. 12:7-60a. This is designed to allow an individual with substantial training and experience, who is not applying to the United States Coast Guard for an operator's license, to more easily show proof of experience. An individual who does not hold an operator's license, would still be required to hold a current certification as an instructor as provided by the United States Coast Guard Auxiliary, the United States Power Squadron, the National Safe Boating Council or other certification program that is determined to be acceptable by the Superintendent of State Police, prior to becoming an approved instructor. All certifications utilized to satisfy the requirements stated above must be valid and in force at the time of application. Finally, the Division is proposing an amendment that would allow providers/instructors to use experts, such as manufacturers representatives, law enforcement personnel or government

employees, etc to provide specific lectures for topics in which they have a great deal of expertise.

N.J.A.C. 13:61-2.4 lists the disqualifying offenses. Paragraph (a)2 has been expanded to include reasons for disqualification specific to information provided on the application for becoming an approved boat safety instructor. This includes, but is not limited to, providing proper identification including, one form with photograph of applicant, proof of address and proof of proper documentation of experience and training. N.J.A.C. 13:61-2.5 provides that upon approval of an applicant the Marine Services Bureau will issue to the instructor a unique identification number and identification card certifying that the person is approved as a boat safety instructor. The Division proposes an amendment that would require, upon such time that an instructor is no longer approved, the instructor shall return the instructor identification card and all applications for boat safety certificate to MSB.

N.J.A.C. 13:61-2.6 provides the procedure for suspension or revocation of approval of a boat safety instructor if the instructor is found to have administered the course or provided instruction in a manner inconsistent with the course approval or the statute and rules. The Division proposes amendments that would provide additional reasons to allow the Superintendent to revoke or suspend boating safety instructors/providers. Language is proposed that would clarify the consequence for taking a boating safety course from a revoked or suspended instructor.

Proposed new rule N.J.A.C. 13:61-2.7, Re-approval of instructors, provides specific instructions for boating safety instructor's seeking to renew their approval. The new rule would provide for a time requirement, 90 days prior to the expiration of the current approval.

Proposed new rule N.J.A.C. 13:61-2.8, Hearings; boat safety instructors, provides for an appeal process for reconsideration of boating safety instructors that are re-revoked or suspended. The new rule provides for time limitations for the submission of appeals and provides for a formal hearing for anyone revoked or suspended.

Proposed new Subchapter 3 prescribes the procedure and conditions for obtaining approval to administer State-approved pre-rental boating safety instruction and the establishment of a list of boat rental businesses that are approved to offer pre-rental boating safety instruction pursuant to N.J.S.A. 12:7-61(3). The contents of this subchapter are applicable to the owners and/or principal officers of boat rental businesses in the State of New Jersey, who wish to provide renters with State approved pre-rental instruction.

The Division has provided a 60-day comment period for this notice of proposal. Therefore, the notice is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

The rules proposed for readoption with amendments and new rules will continue the existing rules to ensure that boaters in New Jersey receive adequate instruction in boat safety for their own protection and the protection of the boating public. The proposed amendments and new rules are designed to maximize the overall efficiency and integrity of boat safety course instruction within the State of New Jersey, as well as courses provided over the Internet by requiring that all course material, submitted for approval, comply with the 2010 version of the "National Boating Education Standards," as may be amended and supplemented from time to time. The amendments also include, in addition to the "National Boating Education Standards," a list of comprehensive course material requirements specific to New Jersey topics. The requirements for passing the final exam have been raised from 70 to 80 percent for eligibility to receive a boat safety certificate and the proposed rules also include specific requirements for persons that fail the final exam.

The proposed rules also provide provisions for the overall integrity of boat safety instruction especially when a boat safety course or proctored test for an Internet course is offered in a private residence or in a location that is not open to the public during the time the course or test is administered. This includes retaining written consent from the property owner, so that the Superintendent may conduct compliance inspections. This also includes requirements for providers to provide adequate and reasonable notice to the Superintendent of course changes including, but not limited to, location changes, instructor changes and course

cancellations. Additionally, time limitations for providers, as it pertains to processing and issuing boat safety certificates, have been incorporated into the proposed rules.

In order to improve the qualification and application process proposed changes have been incorporated that, for the first time, require proof of identification for boat safety instructors including photographic identification. A minimum age requirement has been included in the qualification process and a more specific list of authorized supporting documentation of subject matter expertise has been included with the stipulation that this documentation must be presented to the Superintendent in-person. The rules also include allowances for the use of non-approved boat safety instructors for extra curricular lectures, presentations or other activities in order to provide a broader based frame of reference for the perspective students. This type of instruction is above and beyond the core curriculum needed to acquire a boat safety certificate.

The proposed amendments will have a positive social impact by increasing the overall integrity and efficiency of the boat safety instruction program, which leads to a more proficient and better informed boater.

Economic Impact

The rules proposed for readoption do not impose any direct costs on providers or students. There are no fees for the approval of boat safety courses or the issuance of boat safety certificates to students. However, providers may incur costs in the acquisition and delivery of course material. These costs may be passed on to students in the form of course fees. The amount of any such fee is determined by the course providers. Some organizations, including the Division of State Police, provide boat safety courses at no charge. The Superintendent believes that there will be no adverse economic impact upon the public as a result of the readoption of these rules with amendments and new rules.

Federal Standards Statement

A Federal standards analysis is not required because none of the rules proposed for readoption or the proposed amendments and new rules are the subject of any Federal standards.

Jobs Impact

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

Agricultural Industry Impact

The rules proposed for readoption and the proposed amendments and new rules will not have any impact on the agricultural industry.

Regulatory Flexibility Analysis

Boat safety courses are offered by both public and private entities. To the extent that private entities qualify as small businesses within the meaning of N.J.S.A. 52:14B-16 et seq., this analysis applies to them. The rules proposed for readoption and the proposed amendments and new rules contain reporting, recordkeeping and compliance requirements for approval and require all providers to submit course materials for approval that comply with the National Boating Safety Standards. Providers will now be required to report every boat safety course or proctored test for an Internet course to the Superintendent in order to allow for random compliance inspections for integrity purposes. Additionally, this includes reporting requirements for changes in location, instructors or course and test cancellation. Providers will be required to submit applications for approved certificates to the Superintendent within 30 calendar days and then be required to disseminate, back to the applicant, the approved certificates within an additional 30 calendar days.

The proposed new rules, specifically dealing with boat rental business, do impose a recordkeeping requirement for the rental businesses as it pertains to maintaining a written record for all individuals that receive pre-rental instruction provided by that business. Additionally, the rental businesses will be required to provide renters with a copy of proof of completion, which shall serve as evidence that the renter has received approved pre-rental instruction.

The financial impact of these requirements is negligible and is far outweighed by the benefit they will provide. Professional services are not needed for compliance.

Smart Growth Impact

The Superintendent anticipates that the rules proposed for readoption with amendments and new rules will have no impact on the achievement of smart growth in New Jersey or on the implementation of the New Jersey State Development and Redevelopment Plan.

Housing Affordability Impact

The rules proposed for readoption with amendments and the proposed new rules will have an insignificant impact on affordable housing in New Jersey and there is an extreme unlikelihood that the rules would evoke a change in the average costs associated with housing because the proposed rules concern approval of boat safety courses taught by public and private entities and approval of boat safety instructors.

Smart Growth Development Impact

The rules proposed for readoption and the proposed amendments and new rules will have an insignificant impact on smart growth and there is an extreme unlikelihood that the rules would evoke a change in housing production in Planning Areas 1 or 2 or within designated centers under the State Development and Redevelopment Plan in New Jersey because the proposed rules concern approval of boat safety courses taught by public and private entities and approval of boat safety instructors.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 13:61.

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

SUBCHAPTER 1. BOAT SAFETY COURSE REQUIREMENTS

13:61-1.2 Definitions

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

...
“Boat safety certificate” means a certificate issued by the Superintendent to an individual upon that person’s successful completion of an approved boat safety course.
 ...

...
“Boat safety course clerical administrator” means an individual who may or may not be a provider or a boat safety instructor, and who is employed by, is a volunteer for, or is retained under contract to any boating safety course provider, either public or private, who will be entering data or completing other duties pertaining to boat safety certificates issued by that provider.
 ...

...
“Boat safety instructor” means an individual who is a State of New Jersey boating safety course provider, or a person who is employed by, is a volunteer for or is retained under contract to any boating safety course provider, either public or private, and who will be taking part in the instruction or testing of students in a boating safety course approved by the [State of New Jersey] Superintendent for the issuance of a New Jersey Boat Safety Certificate, or who may have contact with class participants in a manner that may be construed by class participants as an official capacity.
 ...

...
“Temporary boat safety certificate” means a temporary certificate issued by an approved course provider, in a manner prescribed by, and on forms provided by, the Superintendent, to an individual, certifying that person’s successful completion of an approved boating safety course.
 ...

13:61-1.3 Application procedure

(a) An application for approval shall consist of and be submitted in the following manner:

1. (No change.)
2. A written outline and full course text containing the minimum requirements set forth at N.J.A.C. 13:61-1.4, which may be compiled by **the provider** or a commercially available product, a sample examination

and description of examination security protocols, and a list of reference material; [and]

3. Any visual and/or audio learning aid(s) that is/are to be utilized while administering an approved boat safety course. This shall include, but is not limited to, instructional videos, slide presentations, computer programs, etc; and

[3.] **4. A list of the names and identification numbers of all approved boat safety instructors employed or authorized to teach the course. The approved boat safety provider shall notify the Marine Services Bureau, in writing, of any additions or deletions to the list.**

(b) (No change.)

13:61-1.4 Course requirements; **requirements for approval**

[(a) An approved course shall include the following material:

1. Vessel Description:

i. Definition/classification;

ii. Types; and

iii. Hull designs.

2. New Jersey Vessel Registration:

i. Boat titling law;

ii. Registration law;

iii. Registration numbers;

iv. Documented vessels; and

v. Hull identification number.

3. Equipment:

i. Personal flotation devices;

ii. Fire extinguishers;

iii. Sound producing devices;

iv. Navigational lights;

v. Visual distress signals;

vi. Ventilation;

vii. Flame arrestors;

viii. Mufflers;

ix. Capacity;

x. Marine sanitation devices; and

xi. Anchors.

4. Preparation:

i. Trailers;

ii. Weather and sea conditions;

iii. Float plan;

iv. Check local hazards;

v. Pre-departure checklist; and

vi. Safety discussion with passengers including, for example, personal flotation devices (PFDs), falls overboard procedures, capsizing, and emergency communications.

5. Operation:

i. Navigation rules;

ii. Aids to navigation;

iii. Accidents, reporting and common causes;

iv. Operator's responsibilities;

v. Mooring;

vi. Operating under the influence of alcoholic and/or drugs; and

vii. Carbon monoxide awareness.

6. Procedures and Practices:

i. Fueling;

ii. Anchoring;

iii. Loading;

iv. Waterskiing, diving/snorkeling;

v. Security; and

vi. Preventative maintenance.

7. Personal Watercraft:

i. Handling characteristics; and

ii. Environmental impact.

8. New Jersey statutes and regulations.]

(a) Course materials submitted for approval shall comply with the National Association of State Boating Law Administrators (NASBLA) boat safety course standards 1.1 through 8.2.14, and R1 through R4, as published in the 2010 version of the "National Boating Education Standards," incorporated herein by reference, as amended and supplemented, in effect at the time the course is

submitted. The standards may be obtained from the National Association of State Boating Law Administrators, 1500 Leestown Rd, Ste 330, Lexington, KY 40511 or online at www.nasbla.org. Delivery of approved courses shall comply with the standards in effect at the time that the course is taught.

(b) In addition to the requirements in (a) above, course materials shall include comprehensive information on the following New Jersey State specific topics:

1. Mandatory education requirements for out-of-State operators;

2. New Jersey specific laws and rules that pertain to vessel speed;

3. New Jersey specific laws and rules that pertain to waterskiing;

4. Homeland security;

5. Environmental concerns when operating in shallow water or near environmentally sensitive shorelines;

6. Marine Sanitation Devices (MSD);

7. New Jersey specific laws and rules pertaining to the operation of personal watercraft; and

8. Contact information for the New Jersey State Police, Marine Services Bureau.

[(b)] (c) Except as provided in [(c)3] (d)3 below for Internet courses, the written text of the course shall be provided to each student at the beginning of each course and shall remain the property of the student for the purpose of future reference.

[(c)] (d) Except as provided in [(c)3] (d)3 below, an approved course shall be a minimum of eight hours in length. The eight hours shall consist of at least six hours of in-person formal instruction by an approved boat safety instructor. A 10 minute, non-cumulative break within each hour of instruction is permitted. The remaining two hours shall consist of either in-person formal instruction or home study assigned by the instructor, which shall require the completion of written homework, and up to one hour for testing. [The topics specified in (a)3, 5, 8 and 9] **All instruction required under (a) and (b) above shall be covered through in-person formal instruction and may be supplemented through written homework.** [The remaining topics may be covered through in-person classroom instruction or assigned as home study.]

1.-2. (No change.)

3. An Internet course that is submitted for approval is subject to all requirements of this chapter, except the requirement for in-person classroom instruction.

i. The Internet course shall provide the equivalent of eight hours of instruction. The Internet course shall be constructed in a way that does not allow the student to skip any **pages or sections**[], or **complete the online portion of the course in less than five hours. Each section or page of an Internet course shall be displayed for an amount of time appropriate for the complexity and amount of content found in that section or page. The five hours shall not include the time required to complete the comprehensive review quizzes set forth in (d)3iii below or the in-person proctored test required by (e) below.** The course shall be so constructed as to allow the student to stop and re-start, and return to complete the course at a later time, thus, not requiring that the course be completed without pause. Courses may include graphics, and when possible, include animation (video, etc) to demonstrate various concepts. **The provisions of this paragraph shall become operative as of March 1, 2011.**

ii. (No change.)

iii. The course shall consist of multiple sections or chapters, having all required New Jersey specific content integrated into the text. A comprehensive review quiz shall follow the completion of each section or chapter. The review quiz shall contain questions relating to pertinent information contained within that section or chapter. There shall be at least one question drawn from each page of the section or chapter with a minimum of 10 questions drawn from each section or chapter. A minimum of 50 review questions shall be provided for each course. More questions may be required for approval if it is deemed necessary to adequately cover the required subject matter. At least five of the questions shall be on topics related to New Jersey specific statutes and [regulations] rules, there shall be a minimum of five questions pertaining to "navigation rules[.]" and five questions pertaining to "safety equipment." The questions shall be randomly selected from a larger pool of questions and shall not be constructed in such a way that makes an

answer obvious. The minimum passing score for each comprehensive review quiz is [70] **80** percent. Successful completion of the Internet course requires the student to pass every comprehensive review quiz. If, at the discretion of the Internet course provider, a final examination is also provided, the student shall be required to pass the final examination with a minimum score of [70] **80** percent.

iv.-vi. (No change.)

[(d)] (e) Upon completion of the formal instruction, and any assigned homework, the provider shall administer an approved closed book [50-question], four-answer option, multiple choice examination, **consisting of at least 50 questions**, to each student. Each question shall be of equal value. The provider shall establish procedures to ensure the integrity of the test and the testing process and prevent cheating. The examination shall be comprehensive and shall include at least five questions on navigation rules, five questions on State-specific statutes and [regulations,] **rules** and five questions on safety equipment. The examination shall be proctored in person by an approved boat safety instructor.

1. An individual who fails on the first attempt to successfully complete the approved closed book exam as set forth in (e) above, shall wait at least 24 hours before attempting the test a second time.

2. An individual who fails on the second attempt to successfully complete the approved closed book exam as set forth in (e) above, shall re-take and successfully complete another approved boating safety course in order to be eligible to receive a New Jersey boat safety certificate.

[(e)] (f) Students who successfully complete an approved course and examination as set forth in [(d)] (e) above, shall be eligible for a boat safety certificate, subject to the requirements of N.J.A.C. 13:61-1.7. "Successfully complete" means that the student was present for all classroom instruction, completed any assigned home study, or, if the student [took] **completed** an Internet course, completed all requirements as set forth in [(c)3] (d)3 above and scored a minimum of [70] **80** percent on the examination required in [(d)] (e) above.

13:61-1.5 Duration of approval

(a) (No change.)

(b) A Letter of Approval shall be valid for three years from the date of issuance, **or if the provider is also an approved boating safety instructor, three years from the date of the criminal history record background record check in accordance with N.J.A.C. 13:61-2.5(b)**, and shall expire on the last day of the month.

(c) (No change.)

13:61-1.6 Inspection of approved courses

(a) The Superintendent or designee may inspect the records or facilities of any approved provider to verify compliance with [these rules] **this chapter**. The Superintendent or designee may [also] require [the] **approved course providers, [or a representative] prospective course providers, approved boat safety instructors, prospective boat safety instructors, boating safety course clerical administrators or prospective boating safety course clerical administrators** to attend an annual information session on boat safety education standards and procedures conducted by the Marine Services [Unit] **Bureau**.

(b) **Every approved boat safety instructor and approved course provider, by seeking and accepting approval to teach and/or administer approved boating safety courses, is deemed to have given consent, to the New Jersey State Police or an individual authorized by the Superintendent, to inspect any boating safety course or proctored test for an Internet course, without notice. Should a boat safety instructor or course provider wish to conduct an approved boat safety course or proctored test in a private residence, or in a location that is not open to the public during the time that the course will be administered, or in any other location for which the approved instructor or provider does not have the authority to grant access, the approved instructor or provider shall first obtain from the property owner and/or individual having authority to grant access to the property, a signed waiver, stating that they have been made aware that the New Jersey State Police, or an individual authorized by the Superintendent, may inspect the course or test at any time, to check for compliance with New Jersey laws and rules and agreeing to**

provide access for such purpose. Should New Jersey State Police, or other authorized personnel be denied entry into a boat safety course or test, or should entry into a boat safety course or test be unreasonably delayed for any reason, that course or test shall be considered null and void, the course provider shall not issue a temporary boat safety certificate and the Superintendent shall not issue a New Jersey boat safety certificate to any individual based on completion of that course.

(c) **Should any boating safety course or test be found to have been administered in a manner that is not in compliance with N.J.S.A. 12:7-60 and 61 or this chapter, that course shall be deemed null and void, and the Superintendent shall not issue New Jersey boat safety certificates based on that course.**

(d) **Every boating safety course or proctored test for an Internet course administered for the issuance of New Jersey boat safety certificates shall be administered within the State or within 20 miles of the borders of the State. The Internet portion of an Internet course is not required to be completed within the State or within 20 miles of the borders of New Jersey, however, the final exam required in N.J.A.C. 13:61-1.4(g) shall be completed within the State or within 20 miles of the borders of New Jersey.**

(e) **A boating safety course that is administered for the issuance of New Jersey boat safety certificates, whether administered via the Internet or in-person, during which class participants will be provided the opportunity to earn any other type of certification, including, but not limited to, certificates for any other state or jurisdiction, shall be taught in full compliance with the provisions of N.J.S.A. 12:7-60 and 12:7-61 and this chapter. The time required to present course topics and materials, complete testing, conduct administrative duties or complete any other task necessary to acquire anything other than a New Jersey boat safety certificate, shall not be counted toward the minimum time requirements for approved New Jersey boating safety courses as specified in N.J.A.C. 13:61-1.4(c).**

(f) **The approved course provider shall file, with the Marine Services Bureau, in a manner deemed appropriate by the Superintendent, notice of every boating safety course or proctored test for an Internet course, to be administered for the issuance of New Jersey boat safety certificates, including those courses and tests that are administered within private residences and/or out-of-State. Notice shall be provided at least one week prior to the scheduled date and time in which the course or test is to commence. The notice shall include the location of the course or test, including address, which cannot be a Post Office box; name of business or organization on whose property the course or test will be administered or the name of the property owner if the course or test is to be administered on private property, such as at a private residence; telephone number; name of instructor(s); date(s) of the course or test; and time(s) in which the course or test will be administered, including start and finish dates and times, of the course or test.**

(g) **Any changes in course or test schedule or location after the initial filing, shall be reported immediately to the Marine Services Bureau. Changes in course or test location or schedule, other than cancelling the course or test or substituting an instructor, may not be made within three days, not counting weekends or legal holidays, of the scheduled course or test date, without the prior written approval of the Marine Services Bureau.**

(h) **Prior to any instructor substitutions or course and/or test cancellations being made within three days, not counting weekends or legal holidays, of the scheduled start of the course or test, notice of instructor substitutions and course or test cancellations, the provider shall immediately notify the Marine Services Bureau.**

(i) **Any course provider or instructor who fails to comply with the provisions of this section, who fails to cooperate with the Marine Services Bureau during a compliance check or who fails to provide accurate information on matters pertaining to the administration of an approved boating safety course, is subject to suspension or revocation.**

13:61-1.7 Application for boat safety certificate

(a) The provider shall certify that the student successfully completed the course and examination, as defined in N.J.A.C. 13:61-1.4, by submitting [the application form provided] **an Application For Boat Safety Certificate Form S.P. 421 in a manner deemed appropriate by the Superintendent[, which]. The application shall include the student's name, address, telephone number, age, [and] date(s) of attendance, the name of the approved instructor administering the course and the name of the approved course provider.** The Superintendent or designee may verify the accuracy of the information provided. Except as provided in (d) below, the provider shall [give] **issue** the student a [copy of the completed application, which shall serve as a] **temporary boat safety certificate in a manner prescribed by, and on forms provided by the Superintendent.** The temporary certificate shall be valid for a period of one year from the date of [issuance] **successful completion.**

1. The provider shall be responsible for submitting all applications for boat safety certificates to the Marine Services Bureau within 30 calendar days of the completion of the boat safety course. The Marine Services Bureau shall return the completed boat safety certificates to the provider for distribution.

2. The provider shall be responsible for distributing the certificates to the course participants within 30 calendar days of receipt of the completed certificates from the Marine Services Bureau.

3. Course providers shall report to Marine Services Bureau the names, certificate numbers and any other appropriate information, of all undeliverable certificate(s). The Superintendent may require that the provider return the undeliverable certificate(s) to the Marine Services Bureau.

4. Providers that fail to meet the requirements of this section may be subject to the sanctions provided in N.J.A.C. 13:61-1.8.

(b)-(c) (No change.)

(d) Any person **who is less than [10] 12 years old at the time of the approved boat safety course and examination will not receive credit toward the issuance of a boat safety certificate.** The provider may issue a certificate of completion to any student [between the ages of 10 and 13] **who is 12 years of age and who successfully completes a boat safety course, but shall not [give] provide the student with a temporary boat safety certificate or a copy of the application for a permanent boat safety certificate. The provider shall, however, report the name and any other information requested by the Superintendent, of any individual who is 12 years of age, and who has successfully completed an approved boat safety course, to the Marine Services Bureau, in a manner deemed appropriate by the Superintendent.** The Superintendent shall issue a permanent boat safety certificate to the student on request when the student reaches the age of 13, subject to the provisions of this section.

(e)-(f) (No change.)

13:61-1.8 Intent to revoke **provider approval**; revocation; **suspension; denial of approval; denial of re-approval**

(a) The Superintendent may revoke, **suspend** or refuse to approve or re-approve a provider for failure to comply with any requirements of [these rules] **this chapter, or for other good cause, including, but not limited to, fraud or misrepresentation in an application for approval or a certification of completion[.], or for administering or instructing courses or allowing an instructor to administer or instruct courses in a manner inconsistent with the provisions of the course certification, or in a manner inconsistent with New Jersey statutes and rules, or for providing inferior service to boating safety class participants. This shall include, but is not limited to, creating an unnecessary delay in forwarding applications for boat safety certificate to the Marine Services Bureau, or in forwarding certificates to class participants, and shall also include failure to conduct administrative duties in a manner prescribed by the Marine Services Bureau, and generally practiced by course providers and approved boat safety instructors in the State of New Jersey.** Students completing courses conducted by a provider whose approval has been revoked, **suspended, has expired, who has been denied approval or re-approval or who is otherwise not**

approved to administer boating safety courses in the State of New Jersey, shall not be eligible for issuance of a boat safety certificate.

1. The course provider shall be responsible for ensuring that all course advertisements, printed or otherwise, are factual and correct. All course advertisements shall accurately reflect the total number of hours that an individual will be required to be present and shall state whether mandatory homework will be required as part of the course. All course advertisements shall include the name and phone number of the approved course provider who will be administering the course.

(b) A notice of intent to revoke or [deny] **suspend** a provider's approval, or **deny a provider's application for approval or re-approval** shall be in writing from the Superintendent, stating the reason(s) and effective date thereof.

(c) A notice of revocation or [denial] **suspension** of an approved course provider's approval, or a **notice of denial of an application for approval or re-approval**, shall be in writing from the Superintendent stating the reason(s) for revocation or denial and the effective date.

(d) **Upon expiration of a provider's approval, at any time that an instructor's approval has been revoked or suspended or an application for approval or re-approval has been denied, the provider shall immediately forward, to the Marine Services Bureau, in a manner prescribed by the Superintendent, all applications for boat safety certificate and any instructor identification card held by that provider.**

[(d)] (e) Any provider whose approval was revoked, **suspended** or denied by the Superintendent may seek future approval pursuant to N.J.A.C. 13:61-1.3 and 1.4.

13:61-1.9 Hearings; **boating safety course providers**

(a) The Superintendent shall afford the applicant or approved [party] **provider, an opportunity for reconsideration and to submit additional information or, in the case of a revocation, suspension or denial of approval or re-approval, an explanation of corrective action taken and procedures instituted to prevent a recurrence.** A request for such reconsideration shall be made in writing to the Superintendent within 15 days from the receipt of notice provided under N.J.A.C. 13:61-1.8.

(b)-(c) (No change.)

SUBCHAPTER 2. BOAT SAFETY INSTRUCTORS

13:61-2.1 Applicability

The rules in this subchapter apply to all public or private entities that provide approved boat safety courses to the public, **or proctor tests for approved internet courses, for the purpose of issuance of a boat safety certificate required by N.J.S.A. 12:7-61.**

13:61-2.3 Qualifications and application process

(a) To be qualified as an approved boat safety instructor, an applicant must hold:

1. A valid, current, United States Coast Guard operators license and a boat safety certificate issued by the Superintendent; or

2. A boat safety certificate issued by the Superintendent and proof of current certification as an instructor provided by any of the following entities:

i.-iii. (No change.)

iv. Other **boating safety instructor** certification program determined acceptable by the Superintendent.

(b) Applicants shall submit an application to the Marine Services Bureau on a form and in a manner determined by the Superintendent. The application shall include:

1. The applicant's name[.]. Two forms of identification shall be provided, at least one shall include a photograph, and at least one shall be a government issued form of identification. It is the applicant's responsibility to provide originals for viewing by Marine Services Bureau personnel and to furnish a copy of the identification utilized to the Marine Services Bureau for retention in the Marine Services Bureau records;

2. The applicant's street address[.]. Proof of address is required. The documents utilized to fulfill the requirements in (b)1 above may be utilized if an accurate, current address is reflected on the document.

If not, the applicant shall provide an original document showing proof of current address for viewing by Marine Services Bureau personnel, and a copy to be retained in the Marine Services Bureau files;

3.-4. (No change.)

5. Information describing the applicant's experience and training in the art and science of navigation and seamanship[; and]. All documented experience shall have been gained after the applicant's 15th birthday. The following documentation may be utilized for the purposes of satisfying the provisions of this paragraph:

i. A United States Coast Guard operator's license, excluding an Operator of Uninspected Passenger Vessels (OUPV) Limited license; or

ii. Written proof of 360 four-hour days of vessel operating experience on a registered or documented vessel, or a vessel, which if operated in the State of New Jersey would be required to be registered or documented. This proof need not be submitted on United States Coast Guard forms, however United States Coast Guard forms may be utilized;

iii. If an individual does not hold a United States Coast Guard operator's license, and is not able to satisfy proof of 360 days operation experience as required in (b)5ii above, but has gained an amount of vessel operating experience that is equal to the experience required in (b)5ii above on a registered or documented vessel or a vessel, which if operated in the State of New Jersey would be required to be registered or documented, the applicant may instead submit proof of vessel operation by submitting:

(1) A statement attesting to at least 10 years of vessel operation on a registered or documented vessel or a vessel, which if operated in the State of New Jersey would be required to be registered or documented. The statement shall include the date(s) of active vessel operation, type(s) of vessel(s) operated and the geographical area of operation. The statement shall be prepared and signed by the applicant and shall explicitly state that the applicant has actively, on a routine basis, operated the vessel(s) during the period specified and be notarized; or

(2) Proof of successful completion of a recognized certification for power vessel operation, issued by a state or Federal government or an entity thereof or a branch of the military, or an entity thereof, that is deemed to be appropriate by the Superintendent, and a statement attesting to at least three years of vessel operation on a registered or documented vessel or a vessel, which if operated in the State of New Jersey would be required to be registered or documented. The statement shall be prepared and signed by the applicant and shall explicitly state that the applicant has actively, on a routine basis, operated the vessel(s) during the period specified, and be notarized. Written proof of successful completion of the certification program shall be issued by the government or military body issuing the certification and shall be an original document (no copies) or a copy of the original document that has been authenticated and signed by the applicant and notarized. It is the responsibility of the applicant to ensure that proof of certification is provided to the Marine Services Bureau; or

iv. Any combination of time as specified in (b)5ii or iii above may be utilized to fulfill the requirements of this section, however, no more than one year of vessel operating experience may be credited per calendar year.

[6. Any other information deemed necessary by the Superintendent after review of the initial application.]

(c) The applicant shall submit supporting documentation to verify requirements as set forth in (a) and (b) above. [The applicant may be required to appear in person to present verifying documentation.] **It is the responsibility of the applicant to furnish any other information deemed necessary by the Superintendent after review of the initial application, including, but not limited to, supporting documentation, original certifications and all information required to complete the boat safety instructor identification card.**

(d) (No change.)

(e) **It is the responsibility of the applicant to appear, in-person, and present all documentation required to prove that the provision of**

this section have been met, and that, that individual has met the qualifications necessary to become an approved boating safety instructor in the State of New Jersey. Unless otherwise specified, original documents shall be provided for viewing by Marine Services Bureau personnel and copies shall be furnished for retention in the Marine Services Bureau files. All copies shall be authenticated and signed by the applicant and shall be notarized.

(f) An individual, who is not an approved boat safety instructor as required by N.J.S.A. 12:7-60 and this chapter, but who is considered, by the provider, to be an "expert" in a particular field, may provide lectures to students taking part in an approved boating safety course only under the following conditions:

1. All individuals instructing required course content as specified in N.J.S.A. 12:7-60 and 61 and this chapter, during an approved New Jersey boat safety course, shall be recognized as a "boat safety instructor" in accordance with N.J.S.A. 12:7-60 and this chapter;

2. An approved boat safety instructor shall present at least seven hours of in-person instruction if the course is completed within a single 24-hour period, or at least six hours of in-person instruction if the course is administered on more than one day, provided that appropriate homework is assigned and the course otherwise meets the time requirements specified in N.J.A.C. 13:61-1.4(c);

3. All course content required by N.J.S.A. 12:7-60 and 61 and this chapter shall be delivered by an approved boat safety instructor;

4. The final examination shall be proctored by an approved boat safety instructor;

5. All lectures, actions or other activities presented by an individual who is not an approved boat safety instructor shall be directly monitored by an approved boat safety instructor to ensure that the content is presented correctly and factually, and that it is presented in the best interest of boating safety. The time in which an individual, who is not an approved boating safety instructor presents material, shall be over and above the required minimum time specified in N.J.A.C. 13:61-1.4(c);

6. Individuals who are not approved boat safety instructors, and who are not providing lecture or other activities as set forth in (f)5 above, may provide classroom assistance to an approved boat safety instructor during the administration of an approved boat safety course or during testing, provided that they are not providing classroom instruction and they are not responsible for monitoring classroom activities. Individuals performing these functions shall be directly monitored by an approved instructor; and

7. The provider and the approved boat safety instructor shall be responsible for the conduct of an individual who is not an approved boat safety instructor, who has taken part in the administration of an approved boat safety course, as set forth in (f)5 and 6 above, administered under their authority, whether that conduct is directly related to occurrences within the classroom, or to events that take place elsewhere, as a result of occurrences within the classroom.

13:61-2.4 Denial of approval; boat safety instructor

(a) The Marine Services Bureau [shall] may deny an application to become an approved boat safety instructor, or refuse to approve or re-approve an applicant, for any of the following reasons:

1. (No change.)

2. An applicant does not meet the qualifications in N.J.A.C. 13:61-2.3(a) or (b); or

3. (No change.)

13:61-2.5 Approval of instructors

(a) (No change.)

(b) Upon approval, the Marine Services Bureau shall issue an instructor number and identification card to the applicant. The boat safety instructor approval shall be valid for a period of three years from the date of [issuance] **the criminal history record background check**. If the instructor is also an approved boat safety course provider, the [instructor approval shall expire at the same time as the course approval as provided in N.J.A.C. 13:61-1.5] **expiration date of the provider approval shall coincide with that of the instructor identification card.**

(c)-(d) (No change.)

(e) Upon expiration of an instructor's approval, or at any time that an instructor's approval has been revoked or suspended, or an application for approval or re-approval has been denied, or the expiration date on the instructor identification card has passed, the instructor identification card and any applications for boat safety certificate held by that instructor shall be forwarded immediately to the Marine Services Bureau in a manner prescribed by the Superintendent.

13:61-2.6 Suspension or revocation of instructor approval; denial of application for approval; denial of application for re-approval

(a) If an approved boating safety instructor is found to have administered or instructed the boating safety course in a manner inconsistent with the provisions of the course certification, or in a manner inconsistent with New Jersey statutes and [regulations] rules, the Superintendent or designee may suspend or revoke the instructor's approval[,], and/or deny that individual's application for approval or re-approval. If the approved boat safety instructor is also an approved provider, that approval as a provider may also be suspended or revoked. Any person whose approval as a boating safety instructor is suspended or revoked or whose application for approval or re-approval was denied, may request a hearing in accordance with N.J.A.C. 13:61-[1.9]2.8.

(b) If a boating safety course provider knowingly allows an instructor to administer or instruct the boating safety course in a manner inconsistent with the provisions of the course certification, or in a manner inconsistent with New Jersey statutes and rules, the Superintendent may suspend, revoke or refuse to approve a provider as provided in N.J.A.C. 13:61-1.8.].

(b) The Superintendent may suspend, revoke or refuse to approve or re-approve a provider that has a history of instructing boat safety courses in a manner inconsistent with the provisions of N.J.S.A. 12:7-60 or this chapter or of providing inferior service to boat safety class participants. This shall include, but is not limited to, creating an unnecessary delay in forwarding applications for boat safety certificate to the Marine Services Bureau or in forwarding certificates to class participants, and shall also include failure to conduct administrative duties in a manner prescribed by the Marine Services Bureau, and generally practiced by course providers and approved boat safety instructors in the State of New Jersey. Other good cause, including, but not limited to, fraud or misrepresentation in an application for approval or re-approval or a certification of completion.

(c) Students completing courses conducted by an instructor whose approval has been revoked, suspended, has expired, who has been denied approval or re-approval or who is otherwise not approved to administer boating safety courses in the State of New Jersey, shall not be eligible for issuance of a boat safety certificate.

(d) A notice of revocation or suspension of an instructor's approval, or a notice of denial of an application for approval or re-approval, shall be in writing from the Superintendent stating the reason(s) for revocation or denial and the effective date.

13:61-2.7 Re-approval of instructors

(a) An approved boat safety instructor may submit an application for re-approval in a manner determined appropriate by the Superintendent.

(b) The request for re-approval shall be submitted, and the re-approval process shall be conducted, in accordance with the process prescribed in this chapter for initial applications.

(c) Applications for re-approval shall be submitted at least 90 days prior to the expiration of approval or a lapse in approval may occur.

13:61-2.8 Hearings; boat safety instructors

(a) In the case of a revocation or suspension, the Superintendent shall afford the applicant or approved instructor an opportunity for reconsideration and to submit additional information or an explanation of corrective action taken, including any procedures instituted to prevent a recurrence. A request for such reconsideration

shall be made in writing to the Superintendent within 15 days from the receipt of notice provided under N.J.A.C. 13:61-2.6.

(b) If a request for reconsideration is timely received, the Superintendent shall set a date for submission of additional information and notify the parties of the time limit. The Superintendent or designee shall review any additional information submitted and, upon verification of the information or corrective action taken, notify the provider of the Superintendent's final decision. The Superintendent may conduct an informal fact finding conference to aid in making a determination.

(c) The applicant or approved instructor may request a formal hearing by notifying the Superintendent in writing within 15 days of receipt of notice of the Superintendent's determination. Upon receipt of such notice, the Superintendent shall consider the matter as a contested case. All hearings shall be held in accordance with the provisions of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

SUBCHAPTER 3. PRE-RENTAL BOAT SAFETY INSTRUCTION

13:61-3.1 Purpose

This subchapter establishes standards for pre-rental boat safety instruction to persons who do not have a valid boat safety certificate pursuant to N.J.S.A. 12:7-61(3).

13:61-3.2 Applicability

(a) New Jersey residents who are 18 years of age or older, who do not possess a New Jersey boat safety certificate and out-of-State residents who are 18 years of age or older, who do not possess a New Jersey boat safety certificate or one of the documents specified in N.J.S.A. 12:7-61b(2)(i), (ii) or (iii), may operate a power vessel, that is not a personal watercraft, on the waters of New Jersey, under the following conditions:

1. The person rents the power vessel from a business engaged in renting power vessels for use on the waters of the State;

2. The person has successfully completed a State-approved pre-rental instruction course provided by the owner or lessor of the power vessel prior to operating the power vessel on the waters of the State; and

3. The owner of the power vessel rental business is experienced in the operation of power vessels and has successfully completed a boat safety course approved by the Superintendent of State Police in the Department of Law and Public Safety.

(b) Upon successful completion of an approved pre-rental course, the renter will be permitted to operate the rented power vessel for the duration of the rental period, not to exceed 30 days.

(c) The contents of this section do not apply to individuals who rent or lease a power vessel from a private party or a business that is not a boat rental company and do not apply to individuals who rent a personal watercraft.

(d) The contents of this section do not apply to New Jersey residents who are in possession of a New Jersey boat safety certificate and out-of-State residents who are in possession of a New Jersey boat safety certificate or who are 16 years of age or older and are in possession of one or more of the documents specified in N.J.S.A. 12:7-61b(2)(i), (ii) or (iii).

(e) Nothing in this section shall modify or change, or be construed to modify or change, the age restrictions for power vessel operators as specified in N.J.S.A. 12:7-61 et seq.

13:61-3.3 Content of instruction

(a) The rental business shall instruct each renter in boating safety prior to allowing such renter to operate. Instruction shall include at least the following topics:

1. United States Coast Guard Navigation rules;

2. Safe speed and distance;

3. Equipment requirements for the appropriate vessel being rented;

4. Operating instructions for the vessel being rented;

5. Operating under the influence of alcohol or drugs;

6. Refueling;

- 7. Weather and sea conditions;
- 8. Local hazard and security zones;
- 9. The prevention and common causes of accidents, such as:
 - i. Capsizing, falls overboard, collisions and groundings;
 - ii. Cold water immersion and hypothermia;
 - iii. Capacity of vessel, safe loading of vessel, dangers of overloading;
 - iv. Propeller safety, dangers associated with the vessel propeller; and
 - v. Dangers associated with the speed and wake of power vessels;
- 10. Buoys and navigation;
- 11. Vessel lights and night operation;
- 12. Anchoring and mooring;
- 13. Operator's responsibilities, including, but not limited to, the operation of power vessels in close proximity to sailing vessels and commercial vessels;
- 14. Carbon monoxide awareness;
- 15. New Jersey laws and rules, including, but not limited to, speed;
- 16. Procedures and practices pertaining to:
 - i. Waterskiing;
 - ii. Diving/snorkeling;
 - iii. Fishing, crabbing, etc.; and
- 17. Any additional topics deemed appropriate by the Superintendent.

(b) The procedures and practices set forth in (a)16 above are not required to be taught, if the activity in question is prohibited by the boat rental business and that fact is clearly stated on the proof of completion.

(c) A written, legible publication, detailing New Jersey laws and rules and an overview of the United States Coast Guard navigation rules specified in (a)5 above is required to be carried on board the rented vessel, as a reference for the renter, during the entire rental period.

13:61-3.4 Proof of completion

(a) The boat rental business shall maintain a written record of all individuals who receive approved pre-rental instruction provided by that business. The original, completed, proof of completion shall be maintained as a record by the boat rental company for at least three years from the date that the renter completed the approved pre-rental instruction. The proof of completion may take the form of a rental agreement or may be a separate document. If the information required to be captured on the proof of completion is captured on the rental agreement, and a separate proof of completion is not issued to the renter, the rental agreement shall be considered to be the proof of completion and would therefore be subject to all of the requirements that the proof of completion is subject to.

(b) A copy of the completed proof of completion shall be provided to the renter, by the boat rental company and shall serve as evidence that the renter has received approved pre-rental instruction.

(c) The proof of completion will permit the individual to operate the rented power vessel, which is not a personal watercraft, for the duration of the rental period, as specified on the rental agreement. The renter shall, at all times while operating the vessel, have the proof of completion in their possession.

(d) At such time that the power vessel is returned to the rental business, the proof of completion will be considered void and the renters copy shall be collected by the boat rental business and retained on file for at least three years.

(e) In all cases, pre-rental instruction shall be completed prior to the renter operating the rented vessel.

(f) The proof of completion shall contain at least the following information:

- 1. The full name, address, date of birth, age and telephone number of the renter;
- 2. The date and time of rental, specifying the duration of the rental period;
- 3. The name and address of the boat rental business;
- 4. The name of the owner or principal officer of the boat rental business;

5. The name and signature of the supervisor who provides approved pre-rental instruction and demonstration;

6. A description of the rented vessel, including registration number, length, horsepower, color and maximum capacities;

7. The statement "I acknowledge that I have received adequate instruction in the operation of the rented vessel, and I feel confident in my abilities to operate the vessel safely"; and

8. The signature of the renter.

(g) The proof of completion shall be subject to inspection by the Marine Services Bureau during normal business hours.

(a)

NEW JERSEY RACING COMMISSION

Harness Racing

Starting Gate

Proposed Amendment: N.J.A.C. 13:71-17.1

Authorized By: New Jersey Racing Commission, Frank Zanzuccki, Executive Director.

Authority: N.J.S.A. 5:5-30.

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

Proposal Number: PRN 2010-185.

Submit written comments by November 6, 2010 to:

Frank Zanzuccki, Executive Director
 New Jersey Racing Commission
 P.O. Box 088
 140 E. Front Street
 Trenton, New Jersey 08625

The agency proposal follows:

Summary

The New Jersey Racing Commission is proposing an amendment at N.J.A.C. 13:71-17.1, Starting gate. The amendment is the result of a rulemaking petition filed with the Racing Commission by Alan Schott by e-mail dated June 21, 2009. On August 19, 2009, the Racing Commission determined to advertise the proposed rule for public comment. See 41 N.J.R. 3464(b).

The proposed amendment to N.J.A.C. 13:71-17.1 will implement a "fair start pole," which will be erected approximately 200 feet before the start. The fair start pole shall be yellow and protrude at least two feet above the inner rail. The fair start pole would be used to disqualify a horse from the pari-mutuel wagering pools if the horse has not reached the fair start pole when the starting gate reaches the starting point. The proposed rule provides an opportunity for bettors to receive a refund of their wagers if a horse they wagered on did not receive a fair start and was disqualified.

The Racing Commission provides for a 60-day comment period on this notice of proposal. Therefore, this notice is excepted from the rulemaking calendar requirement in accordance with N.J.A.C. 1:30-3.3(a)5.

Social Impact

Limited negative social impacts are anticipated with the proposed amendment to N.J.A.C. 13:71-17.1 as the amendment provides for the removal of a horse from wagering if it does not reach a certain point in the race defined as the fair start pole. Bettors who have included the horse in their wagers may be upset as a result of not winning the wager if the horse happens to recover from the bad start and places in a wagering position. A positive social impact could result if the horse never recovers from the poor start and finishes out of the money for wagers placed on it since they will receive a refund of their wagers.

Economic Impact

The bettor would receive an economic benefit if a horse on which he or she placed a wager was disqualified from all pari-mutuel wagering (and performed poorly) as a result of not reaching the fair start pole at the proper time. In that case, all wagers on the horse would be refunded.