Fiscal Analysis Review of
Proposed Wildlife Resources Commission (WRC) Boating Safety Rule Amendment

15A NCAC 10F.0201 Safety Equipment

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Impact: State government: No
Local government: No
Substantial impact: No
Authority: G.S. § 113-134

This is an amendment to the safety equipment rule for vessels that the Wildlife Resources Commission (WRC) proposes to take to public hearing contingent on the approval of the full Commission at its meeting on May 17, 2013. The purpose of the proposed rule change is set forth below and the full text of the proposed change is included in the appendix to this document. For reasons which are outlined below, WRC believes that this rule change does not meet the criteria requiring a fiscal note pursuant to G.S. § 150B-21.4.

PROPOSED RULE CHANGE SUMMARY

Background
It is the policy of North Carolina to promote safety for persons and property in and connected with the use, operation, and equipment of vessels, and to promote uniformity of laws relating thereto (G.S. § 75A-1). The Wildlife Resources Commission is the state agency charged with administering and enforcing boating safety (G.S. § 75A-3).

Boating Safety Rule for Amendment
15A NCAC 10F.0201 As amended, this rule would clearly define manually propelled racing vessels. These vessels are exempt from the requirement elsewhere in the rule that vessels carry personal floatation devices (PFDs). Examples of these vessel types are currently written into the rule (racing shells, rowing sculls, racing canoes and racing kayaks), but without the explanatory text the Commission has determined the rule lacks clarity.

Furthermore, as amended 15A NCAC 10F.0201 expands the types of vessels exempt from carrying PFDs to include surfboards, paddle boards, tubes, swimming rafts, inflatable toys and similar devices routinely used as water toys or swimming aids. Most users of these types of
manual water craft are not aware that, technically, under current rule text they need to carry a PFD aboard their vessels. The Commission has determined that requiring PFDs for these types of water craft does not significantly enhance safety and is overly burdensome to the public.

**STATE IMPACT ANALYSIS:** The agency has concluded that there will be no significant cost to the State for implementation of the amended 15A NCAC 10F .0201. None of the changes are anticipated to result in an increase or decrease in enforcement activity or require additional enforcement hours.

**LOCAL IMPACT ANALYSIS:** Local governments are not involved in the enforcement of WRC rules and should incur no costs as a result of these rules.

**SUBSTANTIAL ECONOMIC IMPACT ANALYSIS:** WRC has concluded that there will be no substantial economic impact to the public as a result of the adoption of any of these proposed changes. There may be a small (<$500.00) financial benefit to users of surfboards, paddle boards, tubes, swimming rafts, inflatable toys and similar devices routinely used as water toys or swimming aids who are aware of the current requirement to have a PFD and plan to purchase one based upon that requirement. However, the Commission estimates the number of such people in the State who are aware of the current requirement is very small and the cost of a PFD is modest ($10.00-$15.00).
APPENDIX

15A NCAC 10F .0201 SAFETY EQUIPMENT

(a) Federal Regulations Adopted. As its regulations governing required equipment of vessels as defined in G.S. 75A-2(5), pursuant to G.S. 75A-6, the Wildlife Resources Commission adopts the following federal regulations, to be applicable to vessels operated on all waters of this state as defined by G.S. 75A-2(6): Code of Federal Regulations, Title 46, Part 25, and Title 33, Part 175, as supplemented by the Federal Register. To the extent that the vessel equipment requirements of G.S. 75A-6 conflict with these federal regulations, they are hereby modified to conform to the federal regulations as authorized by G.S. 75A-6(m) and 113-307.

Without limitation to the adoption of the Federal regulations named herein, the rules set forth in subsections (b) through (g) shall apply to vessels operating in State waters.

(b) Personal Flotation Devices (hereinafter referred to as PFDs) are required as follows except as provided in Subparagraph (6) of this Paragraph:

(1) No person may operate a vessel unless at least one PFD of the following types is on board and readily accessible for each person:
   (A) Type I PFD;
   (B) Type II PFD; or
   (C) Type III PFD.

(2) No person may operate a vessel 16 feet or more in length unless one type IV 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 may operate a vessel while such vessel is underway with any child under 13 years old aboard unless each such child is:
   (A) wearing an appropriate PFD approved by the Coast Guard; or
   (B) below decks; or
   (C) in an enclosed cabin.

   This Subparagraph does 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 used; or
   (B) the Type V PFD is used in accordance with the requirements on the approval label and with the requirements in its owners manual.

(5) No person may operate a vessel unless each required PFD is:
   (A) in serviceable condition;
   (B) of appropriate size and fit for the intended wearer;
   (C) USCG approved; and
(D) legibly marked with its approval number, as specified in CFR Title 46 Part 25 and CFR Title 33 Part 175.

(6) Exemptions:

(A) Canoes and kayaks 16 feet in length and over are exempted from the requirements for carriage of the additional Type IV PFD as specified in Subparagraph (b)(2) of this Rule.

(B) Sailboards, surfboards, paddle boards, tubes, swimming rafts, inflatable toys and similar devices routinely used as water toys or swimming aids. Manually propelled vessels that are recognized by national and international racing associations for use in competitive racing and in which all occupants row, scull, or paddle, with exception of a coxswain, if one is provided, and are not designed to carry any equipment not solely for competitive racing such as racing shells, rowing sculls, racing canoes and racing kayaks are exempted from the requirements for carriage of any type PFD required under this Paragraph.

(c) Fire Extinguishers are 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 any one of the following conditions exist:

(A) Closed compartments under thwarts and seats wherein portable fuel tanks may be stored;

(B) double bottoms not sealed to the hull or which are not completely filled with flotation material;

(C) closed living spaces;

(D) closed stowage compartments in which combustible or flammable materials are stowed;

(E) permanently installed fuel tanks; or

(F) motorboats of Class 2 or longer;

(2) Motorboats of Class A and 1 (less than 26 feet): One Type B-I extinguisher

(3) Motorboats of Class 2; Two Type B-I extinguishers

(4) Motorboats of Class 3; 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 is equal to one Type B-I hand portable fire extinguisher.

Exemption to fire extinguisher requirements: Open Vessels. Vessels less than 26 feet in length, propelled by outboard motors and not carrying passengers for hire, need not carry such portable fire extinguishers if the construction of such motorboats will not permit the entrapment of explosive or flammable gases or vapors.

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

(e) Every vessel, except those open vessels defined in Paragraph (c) of this Rule, using as fuel any liquid of a volatile nature, shall be provided with such means of properly and efficiently ventilating the bilges of the engine and
fuel tank compartments so as to remove any explosive or flammable gases. Proper and efficient ventilation meets the requirements of CFR Title 46 Part 25 and CFR Title 33 Part 175.

(f) Sound Devices

(1) Vessels of less than 12 meters (39.4 feet) in length shall be equipped with some means of making an efficient sound signal.

(2) Vessels greater than 12 meters (39.4 feet) in length shall be provided with a whistle and a bell which complies with 33 USC 2033.

(g) Lights. The lights prescribed by these Rules shall be exhibited from sunset to sunrise, and in restricted visibility. During such times no other lights shall be exhibited, except such lights as cannot be mistaken for the lights specified in these Rules or do not impair their visibility or distinctive character, or interfere with keeping a proper lookout. They may be exhibited in all other circumstances when deemed necessary:

(1) Vessels greater than 12 meters (39.4 feet) but less than 20 meters (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 less than 12 meters (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 (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 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 (23 feet) in length shall, if practicable, exhibit the lights prescribed in Subparagraph (3) or (4) of this Paragraph; if not the vessel shall have ready at hand an electric torch or lighted lantern showing a white light which shall be exhibited in sufficient time to prevent a collision;

(6) A vessel under oars may exhibit the lights prescribed in this Rule for sailing vessels, but if not, shall have ready at hand an electric torch or lighted lantern showing a white light which shall be exhibited in sufficient time to prevent a collision; and

(7) Vessels of 10 Horsepower or Less. On waters of this State 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. On waters
of this State that are subject to the jurisdiction of the United States, this exception, though permissible under state law, is not sanctioned by any federal law or regulation.

History Note: Authority G.S. 75A-3; 75A-6; 113-307;
Eff. February 1, 1976;
Amended Eff. April 1, 2009; March 1, 2008; April 1, 1999; August 1, 1988; May 1, 1976.
Amended Eff. November 1, 2013