

CORRECTIONS

(a)

THE COMMISSIONER

Inmate Groups

Readoption with Amendments: N.J.A.C. 10A:12

Proposed: November 7, 2016, at 48 N.J.R. 2217(a).

Adopted: March 17, 2017, by Gary M. Lanigan, Commissioner,
Department of Corrections.Filed: March 17, 2017, as R.2017 d.066, **without change**.

Authority: N.J.S.A. 30:1B-6 and 30:1B-10

Effective Dates: March 17, 2017, Readoption;
April 17, 2017, Amendments.

Expiration Date: March 17, 2024.

Summary of Public Comment And Agency Response:**No comments were received.****Federal Standards Statement**

The rules readopted with amendments are promulgated under the authority of the rulemaking requirements of the Department of Corrections as established at N.J.S.A. 30:1B-6 and 30:1B-10. The rules readopted with amendments are not subject to any Federal statutes, requirements, or standards; therefore, a Federal standards analysis is not required.

Full text of the readopted rules can be found in the New Jersey Administrative Code at N.J.A.C. 10A:12.

Full text of the adopted amendments follows:

SUBCHAPTER 2. ORGANIZATION OF INMATE GROUPS

10A:12-2.2 Request to establish an inmate group

(a) (No change.)

(b) A request to establish an inmate group shall be submitted in writing to the Administrator or designee and shall include:

- 1.-5. (No change.)
6. The projected number of participants and criteria for participation;
- 7.-14. (No change.)

10A:12-2.3 Inmate groups participation

(a) Inmate group participation shall be:

1.-2 (No change.)

(b) Inmate group participation shall not be contingent upon payment of dues, donations, or any service in kind.

(c) Inmate participation in a group established within a correctional facility shall be terminated upon transfer or release of that inmate from the correctional facility.

10A:12-2.8 Termination of inmate groups or group activities

(a) (No change.)

(b) The Administrator shall provide written notice of termination including the reason(s) for termination to the elected leaders of the inmate group.

SUBCHAPTER 3. INMATE LIAISON COMMITTEE

10A:12-3.5 Access to facility office space

(a) Access to office space may be provided at the discretion of the Administrator or designee to the Inmate Liaison Committee for conducting Committee business:

- 1.-4 (No change.)

LAW AND PUBLIC SAFETY

(b)

BOAT REGULATION COMMISSION

TRANSPORTATION

MOTOR VEHICLE COMMISSION

Boating Regulations

Readoption with Amendments: N.J.A.C. 13:82**Adopted New Rule: N.J.A.C. 13:82-1.21**

Proposed: December 5, 2016, at 48 N.J.R. 2583(a).

Adopted: March 8, 2017, by the New Jersey Boat Regulation Commission, Edward Harrison, Jr., Acting Chair, with the approval of Christopher Porrino, Attorney General; and February 16, 2017, by the Motor Vehicle Commission, Raymond P. Martinez, Chairman and Chief Administrator.

Filed: March 15, 2017, as R.2017 d.064, **without change, but with proposed amendment N.J.A.C. 13:82-3.11(l) not adopted but still pending.**

Authority: N.J.S.A. 12:7-34.40, 12:7-34.49, and 12:7A-28.

Effective Dates: March 15, 2017, Readoption;
April 17, 2017, Amendments and New Rule.

Expiration Date: March 15, 2024.

Summary of Public Comments and Agency Responses:

In this notice of adoption, the Boat Regulation Commission (BRC) and the Motor Vehicle Commission (MVC) proceed with the readoption of the rules at N.J.A.C. 13:82 and the adoption of the proposed amendments and new rule, with the exception of proposed amendment N.J.A.C. 13:82-3.11(l). The BRC received 62 comments opposing proposed amendment N.J.A.C. 13:82-3.11(l) and 57 comments in support of proposed amendment N.J.A.C. 13:82-3.11(l). At a BRC public meeting on January 11, 2017, attendees voiced similar opposition and support to the proposed amendment.

It is necessary for the BRC to proceed with this notice of adoption to prevent N.J.A.C. 13:82 from expiring. However, to give the comments on and related to N.J.A.C. 13:82-3.11(l) full consideration, the BRC will hold proposed amendment N.J.A.C. 13:82-3.11(l) as pending, while it considers its future action.

The official comment period ended February 3, 2017. The BRC received written comments, about sections other than and not related to N.J.A.C. 13:82-3.11(l), from the following:

1. Dean Burnett, President, Yamaha Watercraft Group
2. David Dickerson, National Marine Manufacturing Association
3. Charles Ferruggia
4. Kevin Garrity
5. William Higgins, Public Policy Manager, Marine Retailers Association of the Americas
6. Marcia M. Krull, Volvo Penta of the Americas, Inc.
7. Duane Kuck, President and CEO, Regal Marine Industries, Inc.
8. Dave Lage
9. sla*****@gmail.com (e-mail redacted)
10. Paul Sutphen

N.J.A.C. 13:82-3.1(d)

COMMENT: The proposed amendment adds new language requiring tow lines used in wake surfing to be no less than eight feet in length. The current rule only addressed waterskiing and required tow lines used in waterskiing activities to be no less than 35 feet in length. The commenters both supported and opposed the eight-foot minimum tow line length for wake surfing. Generally, those in support stated the activity is safe and enjoyed at slow speeds, which allows the vessel to make a larger wake and requires a shortened rope. However, those who expressed their opposition argued the reduced rope length creates a dangerous, life threatening situation when used in conjunction with older ski boats and inboard/outboard motors and urged the BRC not to adopt the amendment.

RESPONSE: The BRC has noted the concerns of the commenters and has conducted research related to towed watersports and has deemed the reduction in tow line length, pertaining to wake surfing **only**, as safe. The current rule that requires tow lines used in waterskiing activities to be no less than 35 feet in length remains in effect. Therefore, the amendment requiring the minimum tow line length for wake surfing will stand as proposed.

N.J.A.C. 13:82-3.1(i)

COMMENT: The proposed amendment prohibits the use of vessels propelled by other than direct drive or v-drive motors for the purpose of wake surfing. Commenters generally expressed concern that the amendment would prevent participants in **all** towed water sport activities, specifically tubing, from utilizing water jet-driven vessels. They argued that using jet-driven vessels in conjunction with the mandated 35-foot tow rope for tubing and waterskiing activities is both commonplace and safe. Commenters additionally stated there have been recent innovations in the marine industry that have produced jet-driven boats specifically designed for wake surfing. These vessels are built with specific swim platforms that extend well beyond the transom, thus creating a safe distance from the propulsion source. Lastly, the commenters stated there are alternative propulsion methods that have been designed and utilized for wake surfing that are reported to be safe. The commenters specifically named the “Volvo-Penta Forward Drive (FWD) system” which is designed with a forward facing propeller and is used for wake surfing. They suggested the amendment be changed to define a wake surfing boat as “a boat specifically designed and recommended by the manufacturer for wake surfing” and permit these vessels to be used for this activity.

RESPONSE: The BRC would like to clarify that the amended rule is not restricting the use of jet-propelled boats for waterskiing and tubing. The restriction is specifically for wake surfing **only**. In addition, at the time of the drafting of the proposed amendments to this rule, the Volvo-Penta FWD system was not yet released to the market and there were significant safety concerns regarding the use of jet-drive systems for wake surfing. In an effort to make wake surfing an allowable and safe watersport in the State, the BRC must proceed with N.J.A.C. 13:82-3.1(i). However, the BRC will continue to research the validity of the claims of the commenters and advancements in propulsion technology, and will make any necessary amendments to the rule at a future date.

The MVC received no comments on or related to N.J.A.C. 13:82-8.1 through 9.1.

Federal Standards Statement

A Federal standards analysis is not necessary because the rules readopted with amendments and a new rule do not exceed Federal boating standards promulgated by the United States Coast Guard to the extent that those standards are applicable to waters of the State. N.J.A.C. 13:82-1.3 incorporates by reference Federal standards on required equipment contained in Title 33 and Title 46 of the Code of Federal Regulations. N.J.A.C. 13:82-1.8 with amendments incorporates by reference Federal standards contained in the Inland Navigation Rules in 33 U.S.C. §§ 2071 through 2073 and 33 CFR Parts 83 through 90, and the International Navigation Rules in 33 U.S.C. §§1601 through 1608, where applicable. N.J.A.C. 13:82-1.18 with amendments requires conformity with the Federal Inland Navigation Rule found at 33 CFR 83.30. N.J.A.C. 13:82-2.1 with amendments conforms to the Federal boat accident reporting requirements contained in 33 CFR 173.1 et seq., consistent with N.J.S.A. 12:7-34.46.

Full text of the readopted rules can be found in the New Jersey Administrative Code at N.J.A.C. 13:82.

Full text of the adopted amendments and new rule follows:

SUBCHAPTER 1. GENERAL PROVISIONS

13:82-1.8 Navigation rules

All vessels navigating the waters of this State shall comply with the Inland Navigation Rules Act of 1980, 33 U.S.C. §§ 2071-2073, and applicable regulations, 33 CFR Parts 83 through 90, except where the International Navigation Rules Act of 1977, 33 U.S.C. §§ 1601-1608 are

applicable. Both acts, and any regulation issued thereunder, are incorporated herein by reference, as amended or supplemented.

13:82-1.18 Floats and swim platforms

No person shall place, anchor, or construct or cause to be placed, anchored, or constructed, any float or diving platform more than 25 feet from shore on any waters where power vessels are permitted without the written approval of the State Police. Permitted floats or platforms that remain in the water between sunset and sunrise shall be marked by warning lights as required by the United States Coast Guard Inland Navigation Rule 33 CFR 83.30, which is incorporated herein by reference, as may be amended or supplemented.

13:82-1.21 Waiver of the Boat Regulation Commission rules

(a) Any person or entity desiring a waiver from the provisions of a rule or rules in N.J.A.C. 13:82-1 through 7 shall submit a formal written request to the Commission, in accordance with this section. Any such request shall set forth in detail all facts that support the necessity of the requested relief and identify all persons or entities who might be affected if the relief were granted. Any waiver granted pursuant to this section shall only be valid for one year.

(b) The Commission may, within its discretion, grant a waiver from specific provisions of N.J.A.C. 13:82-1 through 7 if it determines:

1. That such a waiver is consistent with the interests of boating safety;
2. That such a waiver is consistent with the intent of, if not the letter of, N.J.A.C. 13:82-1 through 7; and/or
3. Where strict application of the rule would create an unnecessary hardship that is contrary to the legislative intent of the underlying statutes or the public interest.

(c) The Commission may waive application of any rule in an individual circumstance on its own motion upon finding that such relief is warranted by the factors set forth in (b) above.

(d) All waiver requests shall be submitted to the Commission on a form designated by the Superintendent, at least 60 days prior to a regularly scheduled public meeting of the Commission.

(e) Any person requesting a waiver, and/or any interested party, may be required to attend a regularly scheduled public Commission meeting to provide testimony and/or documentation in support of the request.

(f) All decisions on requests for waiver shall be made at a public meeting of the Commission. If the Commission grants a waiver, the Commission will notify the Superintendent and the Superintendent or his or her designee will issue a letter to the applicant, detailing the terms of the waiver. This letter shall be carried, at all times, by all participants or a designated supervisor, while engaging in the activity subject to waiver.

(g) The Commission shall not grant a waiver of its rules where doing so would be contrary to or inconsistent with an applicable statute.

(h) Any person, group, or organization found to be in violation of this chapter, including the failure to produce the issued letter approving a waiver at the request of law enforcement personnel, shall be subject to the penalties contained within this chapter.

SUBCHAPTER 2. REPORTING OF BOATING ACCIDENTS

13:82-2.1 Reporting of boating accidents

(a) Pursuant to N.J.S.A. 12:7-34.46 and 33 CFR Part 173, when, as a result of an occurrence that involves a vessel or its equipment, a person dies or disappears from a vessel the operator shall, without delay, by the quickest means available, notify the nearest State Police station of the following:

1.-4. (No change.)

(b) (No change.)

(c) If as a result of an occurrence that involves a vessel or its equipment, a person dies; a person is injured and requires medical treatment beyond first aid; damage to the vessel and other property totals more than the Federal standard for filing an accident report as established pursuant to 33 CFR 173.55, or there is the complete loss of any vessel; or a person disappears from a vessel under circumstances that indicate death or injury, the operator or operators shall file a written report on forms furnished by the State Police within:

1. Forty-eight hours of the occurrence if a person dies within 24 hours of the occurrence, or if a person is injured and requires medical treatment beyond first aid or disappears from a vessel; or

2. (No change.)

(d) The written report required in (c) above shall include the following information:

1.-15. (No. change.)

16. The type and number of each fire extinguisher used;

17.-21. (No change.)

22. The opinion of the person making the report as to the cause of the casualty, including whether or not alcohol or drugs, or both, was a cause of or contributed to causing the casualty;

23. Characteristics of the reporting operator's vessel, including:

i. Make;

ii. Model;

iii. Type: authorized terms are "air boat," "auxiliary sail," "cabin motorboat," "houseboat," "inflatable boat," "open motorboat," "paddlecraft," "personal watercraft," "pontoon boat," "rowboat," "sail only," or "other";

iv. Beam width at widest point;

v. Overall length of vessel;

vi. Depth from transom to keel;

vii. Horsepower;

viii. Propulsion: authorized terms are "air thrust," "manual," "propeller," "sail," "water jet," or "other";

ix. Fuel: authorized terms are "electric," "diesel," "gas," or "other";

x. Engine drive type: authorized terms are "inboard," "outboard," "pod drive," "sterndrive," or "other";

xi. Hull material: authorized terms are "aluminum," "fiberglass," "plastic," "rubber/vinyl/canvas," "steel," "wood," or "other"; and

xii. Model year;

24.-26. (No change.)

(e) (No change.)

SUBCHAPTER 3. OPERATIONAL REGULATIONS

13:82-3.1 Waterskiing and wake surfing

(a) "Waterskiing" or "skiing" means a person being towed by a power vessel by means of a tow rope, tow line, or training boom. "Wake surfing" means a person being temporarily towed by a power vessel by means of a tow rope or tow line and releasing the tow line after using the vessel's wake as means of forward propulsion. For the purposes of this section, a wake surfer is considered being towed by the tow vessel after releasing the tow line or tow rope.

(b) All power vessels (including vessel, towline, and skier) conducting waterskiing operations, including wake surfing, shall, while underway, keep at least 200 feet distant from any wharf, marina, dock, pier, bridge structure, abutment, or persons in the water, and 100 feet from other vessels, any shore, approved aid to navigation, or mooring, except specifically provided otherwise in this chapter.

(c) (No change.)

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

(e) Waterskiing and wake surfing are permitted only between sunrise and sunset, except as specifically provided otherwise in this chapter.

(f) Waterskiers and wake surfers shall wear a United States Coast Guard approved wearable personal flotation device, except that a barefoot wetsuit may be worn during sanctioned competitions or shows and while training for such events, as long as there is a United States Coast Guard approved wearable personal flotation device on board the vessel for each skier.

(g) All ski boats shall display a signal pennant, which shall be orange in color and triangular in shape and not less than 12 inches on any dimension.

1. Said pennant shall be displayed at least four feet above the highest structure on the boat during each of the following activities:

i. While pulling or retrieving a skier or wake surfer;

ii. While a skier or wake surfer is in the water; or

iii. (No change.)

2. (No change.)

(h) (No change.)

(i) Vessels utilized for the purposes of wake surfing shall be direct drive or v-drive type propulsion vessels, where the propeller does not extend aft of the transom of the tow vessel. Any vessel in which the means of propulsion extends rearward of the transom of the tow vessel, including, but not limited to, outboard, inboard outboard, and jet drive, shall not be utilized for wake surfing.

13:82-3.8 Lake Mohawk, Sussex County

(a) (No change.)

(b) No waterskiing shall be permitted to the west of Manitou Island north and south of Manitou Bridge, between Manitou Island and Echo Island, or in any other indicated slow speed/no wake area as defined in N.J.A.C. 13:82-1.7(c).

(c) Power vessels shall not exceed slow speed/no wake from sunset to 7:30 A.M. anywhere on the lake.

(d) Power vessels shall not exceed slow speed/no wake in Tamarack Cove, Turtle Cove, Three Finger Cove, the west side of Manitou Island, or the South End Cove of the lake.

(e) Power vessels shall not exceed slow speed/no wake within 200 feet of any shore, wharf, pier, bridge structure, or abutment, dock, floating float of any kind, or floating swimming or diving platform, except for waterski practices, shows, and exhibitions with a waiver granted by the Boat Regulation Commission.

(f) Power boats shall not exceed a speed of 35 miles per hour between 7:30 A.M. and sunset, except for waterski practices, shows, and exhibitions with a waiver granted by the Boat Regulation Commission.

(g) All power vessels starting, landing, or towing ski or aquaplane riders shall keep at least 200 feet distance from any other craft, shore, wharf, pier, bridge structure or abutment, dock, floating or swimming platform, or person in or under the water, except for waterski practices, shows, and exhibitions with a waiver granted by the Boat Regulation Commission.

(h) Waterskiing or aquaplane or towing of skiers or aquaplanes shall be permitted only during the hours between 7:30 A.M. and sunset.

(i) Barefoot skiing, wake surfing, balloon skiing, kite skiing, the use of motor-operated or motor-towed skis, parachute skiing and parasailing, and ski jumping are prohibited, except for waterski practices, shows, and exhibitions with a waiver granted by the Boat Regulation Commission.

13:82-3.11 Lake Hopatcong, Sussex and Morris County

(a)-(j) (No change.)

(k) When the water level reaches the Extreme High Water Level (Elevation 924.20 feet) or when the United States Geologic Survey gauge #01455400 in Hopatcong State Park reads 9.5, a "Slow Speed-No Wake" condition shall exist.

SUBCHAPTER 8. REGISTRATION AND LICENSING

13:82-8.20 Operator license; proof of age and identity; expiration

(a) Each applicant for a boat operator license shall be required to furnish to the Commission, upon request, proof of identity and date of birth and proof that the applicant's presence in the United States is authorized under Federal law. Such proof may be established by submission of the original or certified (by the issuing authority) copy of the primary and/or secondary documents that are listed in (b) below as follows:

1.-5. (No change.)

6. The Commission shall refuse to grant any permit or license if the Commission has reasonable cause to believe that a document is altered, false, or otherwise invalid.

7. An applicant who is not a United States citizen must also submit proof of continued legal presence in the United States evidenced by a document listed in (b)lvi below or by a document issued by the United States Department of Homeland Security or another Federal agency that establishes the applicant's lawful presence in the United States as of the time the proof is presented.

ADOPTIONS

LAW AND PUBLIC SAFETY

8. For persons who, for reasons beyond their control, are unable to present all necessary documents and must rely on alternate documents to establish identity or date of birth, Commission authorized personnel may review, approve, or accept other documentation that proves the applicant’s identity and date of birth, and that the applicant’s presence in the United States is authorized under Federal law.

9. The identity of the applicant shall be deemed to be the name recorded on the document(s) submitted to the Commission pursuant to this section unless evidence of a different name is established by the submission of a civil marriage or civil union certificate, divorce decree, or order of the court.

10. (No change in text.)

(b) The following are acceptable documents:

1. Primary documents:

i. A United States citizen must submit at least one document from the following list:

<u>Document</u>	<u>Value</u>
United States or United States Territory birth certificate or certified copy with a State Office of Vital Statistics or equivalent agency in the individual’s state of birth ...	4
Certificate of Citizenship (Form N-560, N-561 or N-645)	4
Probationary license with digitized image	4

ii. A person who is not a United States citizen must submit at least one document from the following list to establish lawful presence in the United States:

<u>Document</u>	<u>Value</u>
Current Permanent Resident Card (Form I-551) with expiration date and with United States Citizenship and Immigration Services (USCIS) verification	4
Foreign passports with USCIS verification and with valid record of arrival/departure (Form I-94) or valid I-551 stamp in passport ...	4
Valid I-94 stamped “Refugee,” “Parolee,” “Asylee” or “Notice of Action” (Form I-797 approved petition) by USCIS	4
Valid I-94 with attached photo stamped “Processed for I-551. . .” by USCIS	4
Current photo employment authorization card (Form I-688B or I-766) (must be presented with a valid Social Security card)	3
Current Alien Registration Card (Form I-551) without expiration date and with USCIS verification ...	2

2. Secondary documents:

i. United States citizens and persons who are not United States citizens must submit at least one document from the list below.

<u>Document</u>	<u>Value</u>
Valid New Jersey digitized driver or boat operator license (a secondary document for non-United States citizens only)	4
Probationary license with digitized image (a secondary document for non-United States citizens only) ...	4
Civil marriage or civil union certificate or divorce decree ...	3
Social Security card with Social Security Administration (SSA) verification	1

<u>Document</u>	<u>Value</u>
...	

(c) Each applicant must present for inspection an acceptable proof of address document which may be, but is not limited to, the following:

1.-2. (No change.)

3. Any letter or correspondence (including tax bills) received from the Federal Internal Revenue Service or any state tax office within the past year;

4.-5. (No change.)

6. First class mail from any government agency within six months, including a Commission-issued driver or boat license renewal form;

7. A checking or savings account statement (bank or credit union) dated within the last 60 days; or

8. (No change.)

(d) Pursuant to N.J.S.A. 39:3-9b, victims of domestic violence and other specified crimes, and those the Chief Administrator determines to have good cause may show a mailing address on documents in this list as a post office box, an address other than the applicant’s address, or other contact point as acceptable proof of principal residence.

(e) (No change in text.)

(f) A boat operator license that is an endorsement on a basic driver license shall have the same expiration date as the basic driver license.

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

(a)

**DIVISION OF CONSUMER AFFAIRS
BOARD OF POLYSOMNOGRAPHY
Notice of Readoption
Rules of the State Board of Polysomnography
Readoption: N.J.A.C. 13:44L**

Authority: N.J.S.A. 45:14G-7.h.

Authorized By: The State Board of Polysomnography, Sara Rose
“Sally” Gallagher, Chairperson.

Effective Date: March 17, 2017.

New Expiration Date: March 17, 2024.

Take notice that pursuant to N.J.S.A. 52:14B-5.1, the rules at N.J.A.C. 13:44L were scheduled to expire on May 17, 2017. These rules establish the standards for the licensing and regulation of polysomnographic technologists, technicians, and trainees. This includes rules differentiating the scope of practices for technologists, technicians, and trainees; licensure requirements including those for applicants for a provisional license as a trainee, for a temporary license as a technician, and for a licensure if an applicant passed the Board of Polysomnographic Technologists (BRPT) exam after May 17, 2010; and documentation requirements for technologists of services provided to patients.

The Board of Polysomnography has reviewed the rules and has determined them to be necessary, reasonable, and proper for the purpose for which they were originally promulgated, as required by Executive Order No. 66 (1978). Therefore, pursuant to N.J.S.A. 45:14G-7.h and in accordance with N.J.S.A. 52:14B-5.1, these rules are readopted and shall continue in effect for a seven-year period.