



Virginia
Regulatory
Town Hall

Periodic Review and Retention of Existing Regulations Agency Background Document

Agency Name:	4 VAC 15
VAC Chapter Number:	390
Regulation Title:	Watercraft: Safe and Reasonable Operation of Vessels
Action Title:	Retain regulation
Date:	March 19, 2001

This information is required pursuant to the Administrative Process Act § 9-6.14:25, Executive Order Twenty-Five (98), and Executive Order Fifty-Eight (99) which outline procedures for periodic review of regulations of agencies within the executive branch. Each existing regulation is to be reviewed at least once every three years and measured against the specific public health, safety, and welfare goals assigned by agencies during the promulgation process.

This form should be used where the agency is planning to retain an existing regulation.

Summary

Please provide a brief summary of the regulation. There is no need to state each provision; instead give a general description of the regulation and alert the reader to its subject matter and intent.

This regulation provides for the safe navigation on the waters of the Commonwealth by giving the boating public, both Virginia citizens and visitors to the state, boating "rules of the road." On Virginia's rivers, lakes and the Chesapeake Bay, these rules are the equivalent to the motor vehicle codes on our highway system, and help make boating safer for both the recreational and commercial user.

Basis

Please identify the state and/or federal source of legal authority for the regulation. The discussion of this authority should include a description of its scope and the extent to which the authority is mandatory or discretionary. Where applicable, explain where the regulation exceeds the minimum requirements of the state and/or federal mandate.

Section 29.1-735 of the Code of Virginia. Regulations for vessel operation and equipment.

State or federal law or regulation does not mandate this regulation. The safe and reasonable operation requirements apply to all watercraft used or capable of being used as a means of transportation on the water.

Public Comment

Please summarize all public comment received as the result of the Notice of Periodic Review published in the Virginia Register and provide the agency response. Where applicable, describe critical issues or particular areas of concern in the regulation. Also please indicate if an informal advisory group was formed for purposes of assisting in the periodic review.

No citizen comments were received by mail, email, or other channels regarding this regulation during the announced periodic review comment period as provided in the Notice of Periodic Review published in the *Virginia Register of Regulations*. The comment period closed Tuesday, January 9, at 5 p.m. No informal advisory group was formed nor is advisory group formation planned.

Effectiveness

Please provide a description of the specific and measurable goals of the regulation. Detail the effectiveness of the regulation in achieving such goals and the specific reasons the agency has determined that the regulation is essential to protect the health, safety or welfare of citizens. Please assess the regulation's impact on the institution of the family and family stability. In addition, please indicate whether the regulation is clearly written and easily understandable by the individuals and entities affected.

The specific goals of this regulation are: (1) to prevent and minimize boating related fatalities, injuries and property damage; and (2) to improve and standardize boating safety by making the rules of safe and reasonable operation consistent with national standards.

Boating, especially by virtue of its being a water-based recreation, has an inherent degree of risk associated with it. Drowning, collisions, and fires are a few of the potential hazards boaters may face. The extent to which this regulation is essential to citizen safety increases every year, because of the continuous increase in boating participation Virginia has experienced. The available space on the public waterways has not increased. As the number of boaters sharing that space increases, crowding increases, as does the potential for collisions and other mishaps

Through the investigation of the boating accidents that occur each year, the agency compiles annual statistics that can be used to measure how well the goals of minimizing fatalities, injuries and property damage are being accomplished. This regulation, coupled with other boating safety laws, the Department of Game and Inland Fisheries' boating safety education efforts and law

enforcement activities, has been effective. Boating accident rates have declined in the last three years from one accident for every 1026 registered boats in 1997 to one accident for every 1193 registered boats in 1999. Though minimal in the degree of improvement, the three-year improvement from 1997 through 1999 broke a steady decline of the rate from 1991 through 1997. Reported property damage from these accidents has declined from \$1.8 million in 1997 to \$1.0 million in 1999.

This regulation is essential to protect the health and safety of citizens using public inland waters by providing a means to minimize boating accidents, which can be harmful or fatal to the individual. It also provides a means to minimize property damage from boating accidents and damaging wakes. The navigational rules enable waterborne commerce to take place with minimal hazard. This regulation provides boaters in Virginia a set of navigational rules consistent with other states and certain international rules of navigation, both of which are important to those who navigate commercial vessels within the waters of the Commonwealth.

This regulation adopts applicable Federal regulations and statutes concerning safe boat operation. The regulation is clear and readily understood by boaters of the Commonwealth and by boaters visiting from other states.

Alternatives

Please describe the specific alternatives for achieving the purpose of the existing regulation that have been considered as a part of the periodic review process. This description should include an explanation of why such alternatives were rejected and this regulation reflects the least burdensome alternative available for achieving the purpose of the regulation.

Alternatives Considered:

Alternative 1: No state regulation in place.

Description: Leave this activity unregulated by the state.

Level of burden to the public: Having no state regulation for this function would pose the least burden on the boating public from state government authority. The impact of having no state regulation would probably be the lowest on the larger commercial vessels and military ships which would continue to operate under many existing federal regulations. The greater impact would be on the pleasure boater. Recreational boaters would probably become reliant on the federal government to provide them with the same or similar boating regulations, and for enforcement of the federal rules. There is no indication that this would be less intrusive or more clearly understood. Voluntary education could still be utilized.

Satisfies essential government function: Yes, if federal regulation fully replaced state regulation. If not, then the boater's exposure to danger to both person and property would be greater.

Discussion: Alternative 1 was rejected because it most probably would lead to an increase in boating accidents, injury, fatalities, and property damage. Unsafe boating would hurt the boating industry in Virginia and tourism to the state.

Alternative 2: Regulation as currently exists.

Description: Apply minimal rules to govern boat operation. Boat navigation rules apply only when encountering other boats, people in water, docks, piers or operating in narrow channels. Consistency is maintained with boating regulations found in other states.

Level of burden to the public: The existing regulation places only a low to moderate burden on the boating public, and only that which is essential to boating safety. There is reliance on voluntary operator education, and on law enforcement to gain acceptance and compliance. Uniformity of Virginia's boating regulations with those found in other states helps minimize the burden on the boater.

Satisfies essential government function: Yes. Property damage is reduced and the boating public is exposed to less danger than under conditions of no regulation.

Discussion: The regulation as in effect is the preferred alternative and places a low burden on boaters

Alternative 3: Higher level of regulation than currently is in effect.

Description: Boat navigation rules would be enhanced and in effect at all times while on the water. Mandatory education and enforcement would be utilized to gain acceptance and compliance.

Level of burden to the public: High.

Satisfies essential government function: Yes. Protection from personal injury and property damage would be higher in a more highly regulated environment.

Discussion: Just like no regulation would break the continuity of boating safety requirements among our adjoining states, increasing the level of regulation would likewise break the continuity. Existing boating safety efforts have resulted in a 3-year improvement in boating accident rates. Additional regulation is not warranted at this time.

Recommendation

Please state that the agency is recommending that the regulation should stay in effect without change.

The agency recommends that the regulation stay in effect without change.

Family Impact Statement

Please provide an analysis of the regulation's impact on the institution of the family and family stability including the extent to which it: 1) strengthens or erodes the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourages or discourages economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children

and/or elderly parents; 3) strengthens or erodes the marital commitment; and 4) increases or decreases disposable family income.

Reducing boater injury, loss of life, and economic costs associated with accidents and damaging wakes should all support the institution of the family. In addition, boating is a family affair and affords the opportunity strengthen family relationships through shared outdoor activity.

In return for this low level of imposition and interference, boating navigation regulations provide the rules needed to help ensure the safety of citizens on Virginia waters. Private businesses that sell boats, marine equipment, and provide other goods and services related to the boating industry all benefit from compliance. Commercial navigation is also benefited. Families are strengthened by the economic returns from the industry.

Boating participation and boating tourism are enhanced both by the public's perception that safe boating conditions exist on Virginia's waterways, and by the public's familiarity with watercraft regulations in the state. Boating safety regulations that are uniform in Virginia and nationwide support boating tourism and the associated economic benefits flowing to the private enterprises that serve that market. Jobs created by tourism support economic stability for families profiting from tourism.

This regulation has minimal impacts on the authority and rights of parents in the education, nurturing and supervision of their children. It has little impact on encouraging or discouraging economic self-sufficiency, self-pride or the assumption of responsibility for oneself or family members. The marital commitment is unaffected by this regulation.

This regulation does encourage economic self-sufficiency by providing jobs related to the watercraft industry that may not otherwise be available if Virginia's waterways were deemed unsafe for recreational boating.