

COLORADO DEPARTMENT OF REGULATORY AGENCIES
OFFICE OF POLICY AND RESEARCH

COLORADO VESSEL REGISTRATION PROGRAM

1995 SUNSET REVIEW



***Joint Legislative Sunrise/Sunset Review Committee
1995-1996 Members***

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June 30, 1995

The Honorable Richard Mutzebaugh, Chair
Joint Legislative Sunrise/Sunset Review Committee
State Capitol Building
Denver, Colorado 80203

Dear Senator Mutzebaugh:

The Colorado Department of Regulatory Agencies has completed the evaluation of the **Vessel Registration Program**. We are pleased to submit this written report, which will be the basis for my office's oral testimony before the Joint Legislative Sunrise/Sunset Review Committee. The report is submitted pursuant to Section 24-34-104 (8)(a), of the Colorado Revised Statutes, which states in part:

"The Department of Regulatory Agencies shall conduct an analysis of the performance of each division, board or agency or each function scheduled for termination under this section..."

The Department of Regulatory Agencies shall submit a report and such supporting materials as may be requested, to the Sunrise and Sunset Review Committee created by joint rule of the Senate and House of Representatives, no later than July 1 of the year preceding the date established for termination..."

The report discusses the question of whether there is a need for the regulation provided under article 13 of title 33, C.R.S. The report also discusses the effectiveness of the division and staff in carrying out the intention of the statutes and makes recommendations for statutory and administrative changes in the event this regulatory program is continued by the General Assembly.

Sincerely,

Joseph A. Garcia
Executive Director

Table of Contents

<i>EXECUTIVE SUMMARY</i>	1
<i>BOATING IN COLORADO</i>	2
HISTORICAL PERSPECTIVE	3
FEDERAL REQUIREMENTS	5
RECREATIONAL BOATING SAFETY	6
STATE BOATING REQUIREMENTS	8
<i>SUMMARY OF STATUTE</i>	11
FUNDING AND ORGANIZATION	11
<i>PROGRAM DESCRIPTION AND ADMINISTRATION</i>	13
REGISTRATION	14
ENFORCEMENT	15
<i>SUNSET ANALYSIS</i>	18
<i>APPENDICES</i>	19
SUNSET STATUTORY EVALUATION CRITERIA	20
VESSEL REGISTRATION STATUTE	21

EXECUTIVE SUMMARY

The Department of Regulatory Agencies has concluded the 1995 Sunset Review of the Vessel Registration Program under the Board of Parks and Outdoor Recreation. The review recommends that the registration program be continued by the General Assembly.

The registration program is responsible for the numbering of the approximately 87,000 boats in Colorado. Benefits of the regulatory program include more efficient law enforcement particularly in the area of alcohol and drug use while operating a boat; enhanced safety training and monitoring of safe equipment on board registered vessels, and general enforcement of safe boating practices while on the state's waterways.

Data show that Colorado experiences a relatively low number of fatalities even though deaths attributable to boating accidents are second only to vehicle deaths nationwide. A recent upswing in deaths statewide may be attributable to the rapid growth of personal watercraft, commonly known as "jet-skis." The Division of Parks and Outdoor Recreation is increasing its efforts to improve safety in this area leading this review to conclude that continued regulation is necessary.

BOATING IN COLORADO

The Colorado board of Parks and Outdoor Recreation is responsible for the vessel registration program. The Division of Parks and Outdoor Recreation was designated to be the agency that would provide regulatory oversight of the vessel registration program. The Division has operated this program since the early 1970's.

Under the provisions of §33-10-106, C.R.S., the primary responsibilities of the board related to this review include:

- Promulgating rules and regulations, and orders relating to parks and outdoor recreation programs which are necessary to carry out the purposes of articles 10 to 15 of title 33.
- Administering the provisions of articles 10 to 15 of title 33 through the Division and control, manage, develop, and maintain all state parks, consistent with the state policy as set forth in §33-10-101, C.R.S.

As of 1994, there were 87,989 registered vessels in Colorado. This is a significant number of vessels because Colorado is more widely known for whitewater boating rather than as a "flatwater" boating state. The state's lakes and reservoirs are very small compared to other states. Colorado's Vessel Registration Program is a safety oriented regulatory program directed at the recreational boater.

The boat safety program is coordinated by an FTE position that is being funded through the federal boat safety program. The priority of the program is to get boating safety information into the hands of potential boaters before they become an accident statistic. They have been successful with this program by working with groups such as the US Coast Guard Auxiliary and schools. The standard safety course is also set up in a correspondence format in order to reach as many boaters as possible.

For 1993, the national average number of boating accidents was 3.9 per 100,000 boaters. The Division believes Colorado experienced 13 boating related deaths that year. The Division believes that the large number of deaths may be attributed to the large increase in the number of "personal watercraft", the popularity of white water rafting and the influx of new boaters to the state.

The performance measures used to track the effectiveness of the boating program include number of registered vessels, "turn around" time on vessel renewal applications, and the number of boating related accidents and deaths. These measures have been mentioned throughout this report.

Historical Perspective

Recreational boating is a major segment of the United States marine industry. About 46 million people in the continental United States participate in recreating boating activities according to a survey conducted by the American Red Cross in 1991. The U.S. Coast Guard estimates that there are about 20 million recreational boats in the United States, including motorboats, sailboats, canoes, fishing craft, personal watercraft (jet skis), and high performance boats with inboard motors.

The federal government first became involved in recreational boating safety with the enactment of the Motorboat Act of 1910, which set minimum safety requirements for motorboats such as navigation lights, life preservers, and fire extinguishers. The Motorboat Act of 1940 expanded the list of items required on motorboats and established civil and criminal penalties for negligent operation of a motorboat. The Federal Boating Act of 1958 established a national vessel numbering system and encouraged states to adopt boating laws and regulations which mirrored federal laws and regulations.

The Federal Boating Safety Act of 1971 expanded the regulatory authority of the Coast Guard to include all recreational vessels and expanded its jurisdiction to all United States waters. Federal financial assistance was also authorized to encourage the development of state boating safety programs. This Act gave the Coast Guard the authority to establish uniform standards for the design, construction, materials, and performance of recreational vessels and associated safety equipment. Since the passage of this Act, the states and the U.S. Coast Guard have worked jointly to implement the Federal Recreational Boating Safety Program. Each state signs a memorandum of understanding with the Coast Guard every two years that outlines the respective role of each in the areas of enforcement and education. Annually, the states submit a narrative that describes how they have met their statutory responsibilities with respect to the Federal Recreational Boating Safety Program.

In 1980, the Recreation Boating Safety and Facilities Improvement Fund (the Fund) was created. Two-thirds of the fund was designated for facilities improvement and one-third for state boating safety programs. States which receive grants under the State Recreational Boating Safety program are required to match the federal grant dollar-for-dollar and are allowed up to three years to spend grant monies. States may spend grant money on:

- (1) Providing facilities, equipment and supplies for boating safety education and law enforcement;

- (2) Training personnel in skills relating to boating safety and the enforcement of boating safety laws and regulations;
- (3) Providing public boating safety education including educational programs and lectures to the boating community and public school systems;
- (4) Acquiring, constructing or repairing public access sites used primarily by recreational boaters;
- (5) Conducting boating safety inspections and marine casualty investigations;
- (6) Establishing and maintaining emergency search and rescue facilities, and providing emergency search and rescue assistance;
- (7) Establishing and maintaining waterway markers and other appropriate aids to navigation; and
- (8) Providing state recreational vessel numbers and titling programs.

Federal Requirements

The Coast Guard sets minimum safety standards for recreational boats and associated equipment. Personal flotation devices (PFD) must carry the label of "Coast Guard Approved Equipment" which means that the equipment has been determined to be in compliance with U.S. Coast Guard specifications and regulations relating to performance, construction, and materials.

The Recreational Boating Safety Improvement Act of 1994 makes it illegal to operate a recreational vessel under 26 feet in length unless children 12 years of age or younger wear a Coast Guard-approved personal flotation device (PFD) when the individual is on an open deck. The Act also provides incentive funding to encourage states to adopt comprehensive boating while intoxicated (BWI) laws by FY 1998.

The Improvement Act of 1994 required that the Coast Guard submit a plan to Congress to increase reporting of vessel accidents to appropriate state law enforcement officials. The lack of reliable information on boating accidents is a problem in evaluating the need for changes to the boating safety laws. The 1994 Act requires individuals who operate a vessel under the influence of drugs or alcohol, or in a negligent manner to complete a recreational boating safety course.

Federal Regulations (33 CFR Parts 173 and 174) require the operator of any vessel that is numbered or used for recreational purposes to file a report if the vessel is involved in an accident resulting in loss of life, personal injury which requires medical treatment beyond first aid, damage to the vessel exceeding \$500 or complete loss of the vessel. Title 46 U.S. Code Chapter 123 requires each undocumented vessel equipped with propulsion machinery to be numbered in the state in which it is principally owned. The states and other jurisdictions may create their own numbering system as long as they meet or exceed Federal requirements. Boat operators are required to report their accidents to authorities of the state in which the accident occurred. States furnish the Coast Guard with copies of boating accident reports; the Coast Guard maintains the national accident data base. Most fatal accidents and some injury-producing accidents are investigated by state or local officials, and reports of these investigations are also submitted.

Recreational Boating Safety

Recreational boating accidents currently result in the greatest number of transportation fatalities annually after highway accidents.¹ In 1991, there were 41,150 highway fatalities, 924 recreational boating fatalities, 746 general aviation fatalities, and 602 railroad fatalities. Although the number of fatal recreational boating accidents and fatalities decreased each year from 1985 to 1990, the U.S. Coast Guard reported that in 1991, the number of fatalities from recreational boating accidents increased to 924 from 865 reported in 1990.

¹U.S. Department of Transportation, National Transportation Safety Board. 1993. Recreational Boating Safety: Safety Study. Washington, D.C.

The U.S. Coast Guard estimates that in 1991 there were about 20 million recreational boats on the Nation's waterways, with the number increasing steadily each year. Not only has the number of recreational boats increased, the speed at which many of these recreational boats operated has also increased. Because the number of fatalities and injuries has remained substantial and because recreational boating activities are expected to continue to increase, the National Transportation Safety Board (NTSB) initiated a safety study of recreating boating accidents and the countermeasures needed to prevent or reduce their number and severity.

For the study, the Safety Board reviewed U.S. Coast Guard data on recreational boating accidents that occurred between 1986 and 1991. In addition, the NTSB requested that 18 states provide copies of their 1991 fatal accident investigation reports including witness statements, local investigations reports, and written narratives of the accidents. The 18 states included in this study were Alabama, Arizona, California, Colorado, Florida, Illinois, Indiana Louisiana, Maryland, Minnesota, Missouri, North Carolina, Ohio, Pennsylvania, Texas, Utah, Washington, and Wisconsin. The states were selected based on several factors, including geographic location, types of waterways within the State, types of boating operations, and number of boating accidents.

Further, the Board reviewed safety studies on recreation boating and studies performed by other organizations, including a survey of recreational boating activities conducted by the American Red Cross.

The Board concluded that a person is permitted to operate any type of recreational boat, including personal watercraft and high-powered boats, without having to demonstrated proficiency in boat handling or knowledge of safe operating procedures. Generally, there are no requirements that boat operators understand safety procedures or equipment, including use of weather and hazardous water information, and the dangers of overloading or improperly loading a boat. Although states highlighted the progress made to educate operators and passengers about the hazards of recreational boating activities the accident data from the 18 states suggest that additional efforts are needed in this area. The data also suggest that operator experience does not always translate into an adequate understanding of the safety procedures and rules to follow in operating recreational boats or the skills to properly and safely operate a boat.

State Boating Requirements

Drug/Alcohol Issues

As a result of a 1983 NTSB study on the role of alcohol/drugs in recreational boating accidents, the Safety Board recommended that the various states:

Establish a defined level of intoxication to strengthen and improve state marine safety programs to handle alcohol-involved incidents and accidents;

Provide for a chemical test of blood, breath, or urine if a recreational boating operator is suspected of being intoxicated; and

Require toxicological tests of recreational boating fatalities.

The Safety Board also issued a safety recommendation to work with the states to develop a model enforcement program that would include a defined level of intoxication and toxicological and chemical testing requirements. Although it is illegal in all states to operate a vessel under the influence, since 1983, 37 states have passed and/or strengthened their boating while intoxicated (BWI) laws. Although these laws vary from state to state, the majority of states define an illegal blood alcohol concentration standard. Some states define behavioral standards in addition to an illegal blood alcohol concentration; some states specify field test methods; and several states have instituted implied consent provisions.²

Personal Flotation Devices

Thirty-seven states have enacted laws that require PFDs to be worn by children of certain ages and on certain size vessels, for specific water activities, and on specified dangerous waters. Alaska, Arkansas, California, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, North Carolina, South Carolina, South Dakota, and Wyoming have no PFD requirements. In some states, the requirement that children wear PFDs is contingent on the size of the vessel. The varied state requirements to wear PFDs do not seem to be based on accident data or scientific research.

Boating Safety Courses

Boating safety courses offered by the states cover safety procedures and equipment, rules of the road, navigation aids, boat handling characteristics, weather and rough water hazards, alcohol and boating, and pertinent State and Federal regulations. Some states require formal boating safety instruction before a persons is allowed to operate a boat.

²"Implied consent" means that the general method of determining a blood alcohol concentration, or other standard of intoxication may be introduced in court as evidence of intoxication.

Alabama, Connecticut, Illinois, Kansas, Maryland, Massachusetts, Michigan, Minnesota, New Jersey, New York, North Dakota, Texas, Vermont, and Wisconsin require a certificate to operate a motor vessel for youths ranging in age from 11 to 18. Boating safety education for operators of personal watercraft is required in Connecticut, Illinois, and Minnesota.

Education and Licensing Requirement

Twenty-seven states have enacted legislation that establishes various requirements before a person is permitted to operate a recreational boat. For example, 11 states have requirements that are aimed at young boat operators operating the vessel without an adult present. Three additional states (Maryland, Connecticut, and Vermont) have adopted education requirements for all recreational boaters. In each of these states, a boat operator is issued a certificate that must be available for review by a law enforcement officer. Only one state, New Jersey, has a requirement for a recreational boat operator's licenses. The law has been in effect since 1954 and applies only to operators of power vessels who are engaged in sports fishing on nontidal waters. The issue of state licensing requirements was presented at a 1991 conference on injury prevention sponsored by the Center for Disease Control. The following statement was presented:

Few states now require standard training or licensure to operate recreational boats. Some states require a boating education course, but these requirements are usually restricted to persons who are under 16 years of age. We still do not know the effect that licensing or education has on boat-related drownings, so further research is needed. Until we know more, states should require that boat operators demonstrate competency to operate boats of the size and engine power that they actually operate.

SUMMARY OF STATUTE

Article 13 of title 33 of the Colorado Revised Statutes provides for a registration and numbering system for vessels. A "vessel" is statutorily defined as every description of watercraft used or capable of being used as a means of transportation of persons on the water, other than single-chambered air-inflated devices or seaplanes.

Specific board authority for vessels exists in §33-13-103(3), C.R.S. Numbering of vessels required, §33-13-106(1)(d) and (3), C.R.S., Equipment requirements, §33-13-109(2), C.R.S., Collisions, accidents and casualties, §33-013-110(2)(b), (c), C.R.S. Water skis, aquaplanes, surfboards, innertubes, and similar devices.

Funding and Organization

Under the provisions of §33-13-104(4), C.R.S. "All fees under this section shall be credited to the parks and outdoor recreation cash fund and shall be used for the administration of this article". The vessel registration program generates approximately \$1.4 million annually through the registration of 87,989 vessels (1994). This revenue becomes a portion of the \$14.6 million annual budget that supports the overall operations of the Division of Parks and Outdoor Recreation. The Division administers 32 water based recreation areas in the state. According to a survey completed in 1993, 60% of the flat water boating use in the state occurs on areas managed by Colorado State Parks.

For FY 94-95, the Registration Unit of the Division was allocated a budget of \$34,501.00 for operating expenses associated with vessel registration. During this same time period, \$56,023.00 in seasonal work program funds (SWP) were allocated to support seasonal staff needs of the unit. There are no FTEs associated directly with the Vessel Registration Program although there is one FTE assigned to the Boat Safety Program.

Per the provisions of §33-13-112, C.R.S., and §33-14-110, C.R.S., every parks and recreation officer, every peace officer of the state and its political subdivisions and every person commissioned by the division (seasonal offices) shall have the authority to enforce the provisions of the vessel article.

The vessel registration program is mandated by federal law through the United States Coast Guard. The purpose of this mandate is to retain consistency in all state registration programs and to maintain a system that is effective in identifying vessels.

Colorado State Parks is the leader in the state on boating recreation. As the lead agency on this recreational activity, they are in constant contact with federal, state, and local agencies on issues relating to registration, boating safety issues, boating access, etc.

As far as the Division knows, there are no overlapping or duplicative regulations in regard to the vessel program. However, §33-14-118, C.R.S. and §33-13-113, C.R.S., provide the opportunity for other government entities to promulgate rules or regulation in regard to this activity as long as they don't conflict with the provisions of state law.

PROGRAM DESCRIPTION AND ADMINISTRATION

Article 13 of title 33 of the Colorado Revised Statutes makes it unlawful to operate or use a vessel in Colorado waters unless the vessel has been registered with the Division of State Parks. Operation of an unregistered vessel is a Misdemeanor.

The registration requirement applies to an expansive array of water craft. Canoes, kayaks, innertubes, inflatable devices and non-motorized or hand-propelled crafts. Sailboats are also covered under the registration requirement but sailboards are not required to be registered. Canoes, kayaks, sailboards and other vessels that are exempt from the registration requirement must be marked with the owner's name and address. Failure to comply is a petty offense punishable by a \$15.00 fine.

Presently, registration fees equal \$15.25 for vessels less than twenty feet in length and \$20.25 for vessels twenty feet or more in length.

Vessel registration fees are credited to the Parks and Outdoor Recreation Cash Fund. As the Division states, vessel registration revenue is included in the \$14.6 million annual budget of the Division of Parks and Outdoor Recreation.

For FY 94-95, the Division reports a budget of \$34,501 for vessel registration operations. Additionally, \$56,023 was allocated for seasonal work program funds. The Division uses seasonal workers because of the diverse programs administered.

Registration

The Enforcement Section of the Division of Parks and Outdoor Recreation is designated as the agency that provides regulatory oversight of the Vessel Registration Program. The two primary functions of this program are: registration and numbering of vessels including efficient renewal of registrations, enforcement of Colorado boating laws and regulations leading to a safer boating environment.

The following chart shows boat registrations since 1970 in Colorado.

YEAR	REGISTRATIONS SOLD	INCREASE / DECREASE FROM PREVIOUS YEAR	% INCREASE/ DECREASE FROM PREVIOUS YEAR
1970	29800	2809	10.41%
1971	32360	2560	8.59%
1972	36766	4406	13.62%
1973	38371	1605	4.37%
1974	41164	2793	7.28%
1975	44011	2847	6.92%
1976	49672	5661	12.86%
1977	49348	-324	-0.65%
1978	51374	2026	4.11%
1979	53972	2598	5.06%
1980	55478	1506	2.79%
1981	59114	3636	6.55%
1982	62682	3568	6.04%
1983	66564	3882	6.19%
1984	70745	4181	6.28%
1985	75382	4637	6.55%
1986	77620	2238	2.97%
1987	81968	4348	5.60%
1988	84808	2840	3.46%
1989	84581	-227	-0.27%
1990	84535	-46	-0.05%
1991	85928	1393	1.65%
1992	87848	1920	2.23%
1993*	88193	345	0.39%
1994*	87989	-204	-0.23%

* Please note - Sailboards were exempted from registration requirements in July of 1993.

Enforcement

The Division monitors registration and renewal data through an automated system. The Division's goal for responding to renewal registrations is 12 days. Most vessel owners receive their renewal registration within 7 to 10 days of mailing their renewal card according to Division records.

The following chart shows violation citations issued by the Division since 1990.

Type of Violation	1990	1991	1992	1993	1994	1995*
Boating under the influence	15	16	17	14	16	0
Careless boating	37	31	44	26	37	0
Reckless boating	10	9	2	4	5	0
No personal floatation device	273	178	205	158	112	1
No lights	6	5	1	3	9	0
No sound producing device	21	10	14	11	16	0
No backfire flame control	1	0	2	1	2	0
No fire extinguisher	38	16	35	14	25	0
Wakeless violation	90	55	94	66	61	0
Unlawful raft (single chamber)	1	0	1	2	7	0
Violation of water closure	0	5	2	2	2	2
Restricted area	11	0	10	8	12	1
Sitting in unsafe position	2	4	1	4	5	0
Overloaded	7	5	5	2	7	0
No observer or lookout	93	70	68	60	76	0
Unregistered vessel	47	19	25	19	23	3
No registration for inspection	5	9	12	5	11	0
No decal	3	0	1	1	1	0
No vessel # displayed	1	0	8	1	0	0
* = Incomplete data for 1995						

The Division also administers a boat safety program that is funded by the federal boat safety program. This safety training is voluntary and has been designed to be "user friendly" including availability for correspondence completion.

	1993	1994
Total Accidents Reported	63	60
Total Fatal Accidents	9	2
Total Fatalities	13	2
Total Injury Accidents	28	37
Total Persons Injured	38	44
Total Property Damage	\$68,524	\$69,495

In 1994, of the 60 boat accidents reported in Colorado, 30 involved personal watercraft. Of the 21 vessel collision accidents reported, 25 of the 42 accidents involved personal watercraft. Of these 21 vessel collision accidents, 10 were personal watercraft engaged in an accident with another personal watercraft. The boat registration data base, containing 87,989 boat registration files, shows less than 6,000 registered vessels meeting parameters (based on vessel length and manufacturer identification code portion of the hull identification number listing to a known personal watercraft manufacturer) used to identify personal watercraft from other motorboats.

Therefore, it can be concluded that approximately 7% of the vessels registered in Colorado are personal watercraft. In 1994, personal watercraft were involved in 50% of the boat accidents reported in Colorado. The Personal Watercraft Industry Association reports that nationwide, personal watercraft sales were very strong in 1994 accounting for approximately 32% of all vessels sold. All indicators now cause us to predict that personal watercraft will continue to be involved in an inordinately high percentage of boating accidents.

The vessel registration program is a public safety regulatory scheme. While many regulatory programs rely on administrative sanctions such as license revocation to enforce compliance, the vessel registration program relies more on law enforcement sanctions such as citations or fines to enforce compliance.

The statute and the rules concerning vessel registration contained in 2-CCR-401, Chapter 2 speak not only to administrative or registration application requirements but to a variety of issues of safety. These issues include:

- Prohibition against operation of a vessel while under the influence.
- Prohibition against operation of a vessel while under a court ordered suspension of such privileges because of conviction of an alcohol or drug related offenses pursuant to the vessel registration statute.
- Requirements for personal floatation devices.
- Requirements for lights.
- Requirements for sound producing devices.
- Regulations concerning marine sanitary devices.

SUNSET ANALYSIS

The purpose of the Vessel Registration Program is to promote the safety of persons and property in connection with the use, operation and equipment of vessels. To do so, the vessel registration program requires specific equipment for safety and operation of a vessel, sets penalties and limitations for operating a vessel while under the influence of drugs, alcohol or controlled substances, and prohibits operation of vessels on waters determined to be a hazard to human life or safety.

Further, federal law mandates that states maintain a vessel numbering system. Compliance with vessel registration requirements qualifies Colorado for matching federal funds. Many of these funds are used for improvement of enforcement activities regarding regulations to better control alcohol and drug use while boating, conducting marine casualty investigations and providing search and rescue assistance.

Considering these factors and considering that, nationwide, boating accidents are second only to vehicle accidents, this sunset review concludes that the registration program is the least intrusive way to promote and enforce boating safety.

Recommendation 1 - The General Assembly should continue the Vessel Registration Program.

APPENDICES

Sunset Statutory Evaluation Criteria

- (I) Whether regulation by the agency is necessary to protect the public health, safety and welfare; whether the conditions which led to the initial regulation have changed; and whether other conditions have arisen which would warrant more, less or the same degree of regulation;
- (II) If regulation is necessary, whether the existing statutes and regulations establish the least restrictive form of regulation consistent with the public interest, considering other available regulatory mechanisms and whether agency rules enhance the public interest and are within the scope of legislative intent;
- (III) Whether the agency operates in the public interest and whether its operation is impeded or enhanced by existing statutes, rules, procedures and practices of the Department of Regulatory Agencies and any other circumstances, including budgetary, resource and personnel matters;
- (IV) Whether an analysis of agency operations indicates that the agency performs its statutory duties efficiently and effectively;
- (V) Whether the composition of the agency's board or commission adequately represents the public interest and whether the agency encourages public participation in its decisions rather than participation only by the people it regulates;
- (VI) The economic impact of regulation and, if national economic information is available, whether the agency stimulates or restricts competition;
- (VII) Whether complaint, investigation and disciplinary procedures adequately protect the public and whether final dispositions of complaints are in the public interest or self-serving to the profession;
- (VIII) Whether the scope of practice of the regulated occupation contributes to the optimum utilization of personnel and whether entry requirements encourage affirmative action;
- (IX) Whether administrative and statutory changes are necessary to improve agency operations to enhance public interest.

Vessel Registration Statute

3-13-101. Legislative declaration. It is the policy of this state to administer the registration and numbering of vessels in accordance with federal laws pertaining thereto and to promote the safety of persons and property in connection with the use, operation, and equipment of vessels.

33-13-102. Definitions. As used in this article, unless the context otherwise requires:

(1) "Motorboat" means any vessel propelled by machinery, whether or not such machinery is the principal source of propulsion.

(2) "Operate" means to navigate or otherwise use a vessel.

(3) "Owner" means a person who claims lawful possession of a vessel by virtue of legal title or an equitable interest which entitles him to such possession.

(3.7) "Sailboard" means a sail propelled vessel with no freeboard and equipped with a swivel mounted mast, not secured to a hull by guys or stays.

(4) "Sailboat" means any vessel propelled by the effect of wind on a sail, including sailboards. For the purposes of this article, any vessel propelled by both sail and machinery of any sort shall be deemed a motorboat, when being so propelled.

(5) "Vessel" means every description of watercraft used or capable of being used as a means of transportation of persons and property on the water, other than single-chambered air-inflated devices or seaplanes.

(6) "Whitewater" means natural running water with intermittent rapids.

33-13-103. Numbering of vessels required. (1) It is unlawful for any person to operate or use a vessel on the waters of this state unless such vessel has been numbered and a certificate of the number, referred to in this article as a "registration", has been issued to such vessel by the division. The operator of such vessel shall produce the registration for inspection upon demand of any officer authorized to enforce the provisions of articles 10 to 15 of this title. The following are exempt from the requirements of this subsection (1) and from the vessel registration fee set forth in section 33-12-102:

(a) Any vessel which is neither a motorboat nor a sailboat as defined in section 33-13-102; except that canoes, kayaks, and nonmotorized rafts exempted by this paragraph (a) shall be marked as required by subsection (5) of this section;

(b) Vessels holding a valid marine document issued by the United States bureau of customs;

(c) Vessels which are numbered in accordance with applicable federal law or in accordance with a federally approved numbering system of another state when the registration is valid and the identifying number set forth in the registration is displayed on each side of the bow of such vessel, which vessel is not used within this state during a period of not more than sixty consecutive days;

(d) A vessel from a country other than the United States temporarily using the waters of this state;

(e) A vessel belonging to a class of vessels which has been exempted after the division has found that the numbering of vessels of such class will not materially aid their identification, and, if an agency of the federal government has a numbering system applicable to the class of vessels to which the vessel in question belongs, after the division has further found that the vessel would also be exempt from numbering if it were subject to federal law.

(f) Any vessel defined as a sailboard in section 33-13-102 (3.7) shall be marked as required by subsection (5) of this section.

(2) Every registration issued pursuant to this article shall continue in full force and effect for a period ending December 31 of the year of issuance of the registration unless sooner terminated or discontinued in accordance with the provisions of this article. A registration may be renewed by the owner in the same manner as that provided for obtaining the initial registration. The same number shall be reissued if the application for renewal is received by the division within thirty days before the date of expiration.

(3) The board shall prescribe by rule or regulation a system of numbering which is in compliance with the federal system for numbering vessels.

(4) Any person who violates subsection (1) of this section is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of twenty-five dollars.

(5) It is unlawful for any person to operate or use a canoe, kayak, sailboard, or nonmotorized raft which is not required to be registered under subsection (1) of this section on the waters of this state unless it has been marked with the owner's name and current address in a legible, clearly visible, and durable fashion. Any person who violates this subsection (5) is guilty of a petty offense and, upon conviction thereof, shall be punished by a fine of fifteen dollars.

33-13-104. Application for vessel number. (1) The owner of each vessel requiring numbering by this state shall file an application for a number with the division or any representative approved by the division on forms approved and furnished by the division. The application shall be signed by the owner of the vessel and shall be accompanied by a fee as required under section 33-12-102; except that those vessels owned and operated by the state or any political subdivision thereof shall be registered without payment of a registration fee. Upon receipt of the application in approved form, the division or its representative shall issue to the applicant a registration stating the number issued to the vessel. The number issued shall be painted on or attached to each side of the bow on the forward half of the vessel or, if there are no such sides, at a corresponding location on both sides of the foredeck of the vessel for which it is issued. The number issued shall read from left to right in block characters of good proportion having a minimum of three inches in height, excluding border or trim, and of a color which contrasts with the color of the background, and so maintained as to be clearly visible and legible. No other number shall be carried on the bow of the vessel. Any person who fails to display a vessel number as required in this subsection (1) is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of ten dollars.

(2) The registration shall be of pocket size and shall be on board and available at all times for inspection whenever the vessel for which it is issued is in operation in this state. Any person who violates this subsection (2) is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of twenty-five dollars. If a registration is lost or destroyed, the owner shall, within fifteen days, notify the division. The notification shall be in writing, shall describe the circumstances of the loss or destruction, and shall be accompanied by a fee for a replacement registration as required under section 33-12-101.

(3) When a numbered vessel is lost, destroyed, or abandoned, the registration issued for the vessel shall be surrendered to the division within fifteen days after any such event. When the owner of a numbered vessel changes his address from that shown on the registration, he shall notify the division within fifteen days of such change and as a part of such notification shall furnish the division with his new address. The board may provide in its rules or regulations for the surrender of the registration bearing the former address and its replacement with a registration bearing the correct address or for the alteration of an outstanding registration to show the new address of the owner.

(4) All fees collected under this section shall be credited to the parks and outdoor recreation cash fund and shall be used for the administration of this article.

33-13-105. Seizure of vessels by officers. (1) Every parks and recreation officer and other peace officer of this state is authorized to take and hold possession of any vessel if its hull identification number has been altered, changed, or obliterated or if such officer has good and sufficient reason to believe that the vessel is not in the lawful possession of the operator or person in charge thereof. It is the duty of any such officer so taking possession of any vessel, on being informed of any such vessel, to immediately notify the appropriate law enforcement agencies and the owner if known. Such notification shall contain a description of such vessel and any other helpful facts that may assist in locating or establishing the ownership thereof or in prosecuting any person for a violation of article 4 of title 18, C.R.S., or other state laws.

(2) "Hull identification number" means any identifying number, serial number, engine number, or other distinguishing number or mark, including letters, if any, placed on a vessel or engine by its manufacturer or by authority of the division or in accordance with the laws of another state or country, excluding the vessel registration number.

(3) Whenever a vessel comes into the custody of an officer, the law enforcement agency or a governmental entity may commence an action in a court having jurisdiction to determine whether said vessel shall be destroyed, sold, converted to the use of the seizing agency, or otherwise disposed of by an order of said court.

(4) No court order providing for disposition shall be issued unless the person from whom the vessel was seized, as determined by the registration records of the division, is provided a postseizure hearing by the court having jurisdiction within a reasonable period of time after the seizure. This subsection (4) shall not apply with respect to such vessel used as evidence in any action or proceeding. Nothing in this section shall preclude the return of such vessel to the owner by the seizing agency following presentation of satisfactory evidence of ownership and, if determined necessary, requiring the owner to obtain an assignment of a hull identification number for the vessel from the division.

(5) Notice of said postseizure hearing shall be in the form of a registered letter mailed to the person from whom the property was seized as determined by the registration records of the division. Such notice shall be mailed within sixty days after seizure of such vessel and shall contain the following information:

(a) The name and address of the person from whom the vessel was seized;

(b) A statement that the vessel has been seized for investigation as provided in this section and that the vessel will be released upon a determination that the hull identification number has not been altered, changed, or obliterated or upon presentation of satisfactory evidence of the ownership of such vessel if no other person claims an interest in said vessel within sixty days of the date the notice is mailed; otherwise, a hearing regarding the disposition of such vessel shall take place in a court having jurisdiction;

(c) A statement that the person from whom the vessel was seized, as determined by the registration records of the division, will receive notification of the commencement of any action seeking to determine the disposition of said vessel within ten days after the filing of said action;

(d) The name and address of the law enforcement agency where the evidence of ownership of such vessel may be presented; and

(e) A statement of the text contained in this section.

(6) (a) At a hearing held pursuant to any action filed by the seizing agency or the governmental entity to determine the disposition of any vessel seized pursuant to this section, the court shall consider the following:

(I) If the evidence reveals either that the vessel hull identification number has not been altered, changed, or obliterated or that the hull identification number has been altered, changed, or obliterated but satisfactory evidence of ownership has been presented, the vessel shall be returned to the person entitled thereto. If ownership cannot be established, nothing in this section shall preclude the return of said vessel to a good faith purchaser following the presentation of satisfactory evidence of ownership thereof and, if necessary, upon the good faith purchaser's obtaining an assignment of a hull identification number from the division.

(II) If the evidence reveals that the vessel hull identification number has been altered, changed, or obliterated and satisfactory evidence of ownership has not been presented, the vessel shall be destroyed, sold, converted to the use of the seizing agency, or otherwise disposed of, as provided for by order of the court.

(b) At the hearing, the seizing agency shall have the burden of establishing, by a preponderance of the evidence, that the vessel hull identification number has been altered, changed, or obliterated.

(c) At the hearing, any claimant to the vessel shall have the burden of providing satisfactory evidence of ownership.

(7) If the court having jurisdiction orders the vessel sold by the division, the proceeds of the sale shall be applied as provided for in section 33-15-104.

33-13-106. Equipment requirements. (1) Every vessel operated on the waters of this state shall at all times have aboard:

(a) One personal flotation device of a type approved by the commandant of the United States coast guard in good and serviceable condition and in a readily accessible place of storage for each person on board; except that sailboard operators may wear a wet suit, as defined by the board, in lieu of carrying a personal flotation device as required by this paragraph (a);

(b) When in operation during hours of darkness, a light sufficient to make the vessel's presence and location known to any and all other vessels within a reasonable distance;

(c) If not an entirely open vessel and if carrying or using any inflammable or toxic fluid in any enclosure for any purpose, an efficient natural or mechanical ventilation system which shall be capable of removing any resulting gases prior to and during the time such vessel is occupied by any person;

(d) Such additional equipment which is designed to promote navigational safety and which the board may find to be necessary or desirable for the safe operation of vessels upon the waters of this state.

(2) Any person who violates subsection (1) of this section is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of twenty-five dollars.

(3) The board may exempt vessels from the provisions of subsection (1) of this section under certain conditions or upon certain waters.

33-13-107. Vessel liveries. (1) The owner or operator of a vessel livery shall keep a record of the name and address of each person who hires any vessel which is designed or permitted to be operated as a vessel, the identification number of such vessel, and the departure date and time and the expected date and time of return of such vessel. Such records shall be preserved for at least thirty days after such vessel is to be returned and shall be subject to inspection by the division.

(2) Neither the owner or operator of a vessel livery nor his agent or employee shall permit any vessel to depart from his premises unless such vessel is equipped and registered as required by this article and rules and regulations promulgated pursuant thereto. Any person who violates this subsection (2) is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of fifty dollars.

33-13-108. Prohibited vessel operations. (1) (a) No person shall operate or give permission for the operation of a vessel:

(I) Which is not equipped as required by this article or rules and regulations promulgated pursuant thereto;

(II) Which emits noise in excess of the permissible level established in standards promulgated by the board in accordance with article 4 of title 24, C.R.S.;

(III) Above a wakeless speed in areas zoned as wakeless, as defined by board rule or regulation.

(b) Any person who violates paragraph (a) of this subsection (1) is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of twenty-five dollars.

(2) It is unlawful for any person to operate a vessel in a careless or imprudent manner without due regard for zoning, traffic, and other attendant circumstances or as to endanger any person, property, or wildlife. Any person who violates this subsection (2) is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of fifty dollars.

(3) It is unlawful for any person to operate a vessel in such a manner as to indicate either a wanton or willful disregard for the safety of persons or property. Any person who violates this subsection (3) is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than one hundred dollars nor more than one thousand dollars, or by imprisonment in the county jail for not more than one year, or by both such fine and imprisonment.

(4) No person shall operate a vessel other than a motorboat or a sailboat covered by the provisions of section 33-13-108.1 or be in actual physical control of such a vessel while under the influence of alcohol, a controlled substance as defined in section 12-22-303 (7), C.R.S., or any other drug, or any combination thereof, which renders him incapable of safely operating such a vessel, nor shall the owner or operator of such a vessel knowingly authorize or permit such vessel to be operated by or under the actual physical control of any other person if such person is under the influence of alcohol, a controlled substance, or any other drug, or any combination thereof, which renders him incapable of safely operating such a vessel. Any person who violates this subsection (4) is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than one hundred dollars nor more than one thousand dollars, or by imprisonment in the county jail for not more than one year, or by both such fine and imprisonment.

33-13-108.1. Operating a motorboat or sailboat while under the influence. (1) (a) It is a misdemeanor for any person to operate a motorboat or sailboat or be in actual physical control of a motorboat or sailboat in this state while:

(I) Under the influence of alcohol;

(II) The amount of alcohol, as shown by analysis of such person's blood or breath, in such person's blood is 0.10 or more grams of alcohol per one hundred milliliters of blood or 0.10 or more grams of alcohol per two hundred ten liters of breath at the time of the commission of the alleged offense or within two hours after operating a motorboat or sailboat if the evidence establishes beyond a reasonable doubt that such person did not consume any alcohol between the time of operation and the time of testing;

(III) Under the influence of any controlled substance as defined in section 12-22-303 (7), C.R.S., or any other drug which renders him incapable of safely operating a motorboat or sailboat;

(IV) Under the influence of any combination of alcohol and any controlled substance as defined in section 12-22-303 (7), C.R.S., or any other drug, when such combination of alcohol and controlled substance or any other drug renders him incapable of safely operating a motorboat or sailboat.

(b) For the purposes of this subsection (1), "under the influence of any controlled substance or any other drug" shall include the use of glue-sniffing, aerosol inhalation, or the inhalation of any other toxic vapor.

(2) (a) In any prosecution of a violation of paragraph (a) of subsection (1) of this section, the amount of alcohol in the defendant's blood or breath at the time of the commission of the alleged offense or within a reasonable time thereafter, as shown by analysis of the defendant's blood or breath, shall give rise to the following presumption: If there was at such time 0.10 or more grams of alcohol per one hundred milliliters of blood as shown by analysis of such person's blood or 0.10 or more grams of alcohol per two hundred ten liters of breath as shown by analysis of such person's breath, it shall be presumed that the defendant was under the influence of alcohol.

(b) The limitation of this subsection (2) shall not be construed as limiting the introduction, reception, or consideration of any other competent evidence bearing upon the question of whether or not the defendant was under the influence of alcohol.

(3) In any prosecution for a violation of subsection (1) of this section, the defendant shall be entitled to offer direct and circumstantial evidence to show that there is a disparity between what the tests show and other facts so that the trier of fact could infer that the tests were in some way defective or inaccurate. Such evidence may include testimony of nonexpert witnesses relating to the absence of any or all of the common symptoms or signs of intoxication for the purpose of impeachment of the accuracy of the analysis of the person's blood or breath.

(4) (a) On and after July 1, 1989, any person who operates a motorboat or sailboat or who is in actual physical control of a motorboat or sailboat on the waters of this state shall be deemed to have expressed his consent to the provisions of this subsection (4).

(b) Any person who operates a motorboat or sailboat or who is in actual physical control of a motorboat or sailboat on the waters of this state may be required to submit to a test or tests of his breath or blood for the purpose of determining the alcoholic content of his blood or breath if arrested for any misdemeanor offense arising out of acts alleged to have been committed while the person was operating a motorboat or sailboat in violation of subsection (1) of this section. If such person requests that said test be a blood test, then the test shall be of his blood; but, if such person requests that a specimen of his blood not be drawn, then a specimen of his breath shall be obtained and tested.

(c) Any person who operates a motorboat or sailboat or who is in actual physical control of a motorboat or sailboat on the waters of this state may be required to submit to a test or tests of his blood, saliva, and urine for the purpose of determining the drug content within his system if arrested for any misdemeanor offense arising out of acts alleged to have been committed while the person was operating a motorboat or sailboat in violation of subsection (1) of this section.

(5) Any person who is required to submit to, or who requests that a specimen of his blood, breath, saliva, or urine be taken or drawn for, testing shall cooperate with the person authorized to obtain such specimens, including the signing of any release forms required by any person who is authorized to take or withdraw such specimens. If such person refuses to sign any release forms, such refusal shall be considered a refusal to take the tests, provided said forms conform to subsection (6) of this section. No peace officer shall physically restrain any person for the purpose of obtaining a specimen of his blood, breath, saliva, or urine for testing.

(6) The tests shall be administered at the direction of the arresting officer having reasonable grounds to believe that the person had been operating a motorboat or sailboat in violation of subsection (1) of this section and in accordance with rules and regulations prescribed by the state board of health, with utmost respect for the constitutional rights, dignity of the person, and health of the person being tested. No person except a physician, a registered nurse, a paramedic as certified in part 2 of article 3.5 of title 25, C.R.S., an emergency medical technician as defined in part 1 of article 3.5 of title 25, C.R.S., or a person whose normal duties include withdrawing blood samples under the supervision of a physician or registered nurse shall be entitled to withdraw blood for the purpose of determining the alcoholic or drug content therein. No civil liability shall attach to any person authorized to obtain blood, breath, saliva, or urine specimens or to any hospital in which such specimens are obtained as provided in subsection (4) of this section as a result of the act of obtaining such specimens from any person submitting thereto if such specimens were obtained according to the rules and regulations prescribed by the state board of health; except that such provision shall not relieve any such person from liability for negligence in the obtaining of any specimen sample.

(7) Any person who is dead or unconscious shall be tested to determine the alcoholic content of his blood as provided in subsection (4) of this section. Any person who is dead, in addition to the tests prescribed, shall also have his blood checked for carbon monoxide content and for the presence of drugs, as prescribed by the department of public health and environment. Such information obtained will be made a part of the accident report.

(8) If a person refuses to submit to tests as provided for in subsection (4) of this section and such person subsequently stands trial for a violation of subsection (1) of this section, the refusal to submit to such tests shall be admissible into evidence at the trial, and a person may not claim the privilege against self-incrimination with regard to admission of refusal to submit to any tests.

(9) The fact that any person charged with a violation of subparagraph (II) or (III) of paragraph (a) of subsection (1) of this section is or has been entitled to use such controlled substance or drug under the laws of this state shall not constitute a defense against any person charged with such violation.

(10) No court shall accept a plea of guilty to a violation of section 33-13-108 (4) or a non-alcohol-related or non-drug-related boating offense from a person charged with a violation of subsection (1) of this section; except that the court may accept a plea of guilty to a non-alcohol-related or non-drug-related boating offense upon a good faith representation by the prosecuting attorney that he could not establish a prima facie case if the defendant were brought to trial on the original alcohol-related or drug-related offense.

(11) When a peace officer has reasonable grounds to believe that a person is operating a motorboat or sailboat while under the influence of alcohol or that the operator has been involved in a boating accident resulting in injury or death, the peace officer may request the operator to provide a sample of the operator's breath for a preliminary screening test using a device approved by the executive director of the department of public health and environment as being accurate to within ten percent of the actual reading obtained by the officer upon administering the test. The results of this preliminary screening test may be used for the purpose of deciding whether an arrest should be made and whether to administer a test pursuant to paragraph (b) of subsection (4) of this section but shall not be used in any court action except to prove that a test was properly authorized pursuant to this section. The results of such test shall be made available to the operator or his attorney upon request. The preliminary screening test shall not constitute the test for the purposes of subsection (4) of this section.

(12) (a) Every person who is convicted of a violation of subsection (1) of this section shall be punished by imprisonment in the county jail for not less than five days nor more than one hundred eighty days, and, in addition, the court may impose a fine of not less than one hundred dollars nor more than one thousand dollars. Except as provided in paragraph (c) of this subsection (12), the minimum period of imprisonment provided for such violation shall be mandatory. In addition to any other penalty which is imposed, every person who is convicted of a violation to which this paragraph (a) applies shall perform no more than ninety-six hours of useful public service.

(b) Upon a conviction of a second or subsequent violation of subsection (1) of this section which occurred within five years of the date of a previous violation of subsection (1) of this section, the offender shall be punished by imprisonment in the county jail for not less than sixty days nor more than one year, and, in addition, the court may impose a fine of not less than five hundred dollars nor more than one thousand five hundred dollars. The minimum period of imprisonment as provided for such violation shall be mandatory, but the court may suspend up to fifty-five days of the period of imprisonment if the offender complies with the provisions of paragraph (c) of this subsection (12). In addition to any other penalty which is imposed, every person who is convicted of a violation to which this paragraph (b) applies shall perform not less than sixty hours nor more than one hundred twenty hours of useful public service. The performance of the minimum period of service shall be mandatory, and the court shall have no discretion to suspend the mandatory minimum period of performance of such service.

(c) The sentence of any person subject to the provisions of paragraph (a) or (b) of this subsection (12) may be suspended to the extent provided for in said paragraphs if the offender receives a presentence alcohol and drug evaluation and, based on that evaluation, if such offender satisfactorily completes an appropriate level I or level II alcohol and drug driving safety education or treatment program and abstains from the use of alcohol for a period of one year from the date of sentencing. Such abstinence shall be monitored by the treatment facility by the administration of disulfiram or by any other means that the director of the treatment facility deems appropriate. If, at any time during the one-year period, the offender does not satisfactorily comply with the conditions of the suspension, that sentence shall be reimposed, and the offender shall spend that portion of his sentence which was suspended in the county jail.

(d) In addition to any other penalty provided by law, the court may sentence a defendant who is convicted pursuant to this section to a period of probation for the purposes of treatment not to exceed two years.

(e) For the purposes of this subsection (12), "useful public service" shall have the same meaning as that set forth in section 42-4-1202 (4) (g), C.R.S., and the useful public service program authorized therein shall be utilized for the purposes of this subsection (12). An offender sentenced to such useful public service program or to such work assignments shall complete the same within the time established by the court. In addition to any other penalties, fines, fees, or costs prescribed in this section, the court shall assess an amount not to exceed the amount established in section 42-4-1202 (4) (g), C.R.S., upon any person required to perform useful public service. Such amount shall be used only to pay for the costs authorized in section 42-4-1202 (4) (g), C.R.S.

(e) For the purposes of this subsection (12), "useful public service" shall have the same meaning as that set forth in section 42-4-1301 (9) (i), C.R.S., and the useful public service program authorized therein shall be utilized for the purposes of this subsection (12). An offender sentenced to such useful public service program or to such work assignments shall complete the same within the time established by the court. In addition to any other penalties, fines, fees, or costs prescribed in this section, the court shall assess an amount not to exceed the amount established in section 42-4-1301 (9) (i), C.R.S., upon any person required to perform useful public service. Such amount shall be used only to pay for the costs authorized in section 42-4-1301 (9) (i), C.R.S.

(f) For the purposes of this subsection (12), "alcohol and drug driving safety education or treatment" shall have the same meaning as that set forth in section 42-4-1202 (5), C.R.S., and the alcohol and drug driving safety program and the presentence alcohol and drug evaluations authorized therein shall be utilized for the purposes of this subsection (12). The presentence alcohol and drug evaluation shall be conducted on all persons convicted of a violation of subsection (1) of this section; except that this requirement shall not apply to persons who are not residents of Colorado at the time of sentencing. Any defendant sentenced to level I or level II education or treatment programs shall be instructed by the court to meet all financial obligations of such programs. If such financial obligations are not met, the sentencing court shall be notified for the purpose of collection or review and further action on the defendant's sentence. In addition to any other penalties, fines, fees, or costs prescribed in this section, the court shall assess an amount, not to exceed the amount established in section 42-4-1202 (5), C.R.S., upon any person convicted of a violation of subsection (1) of this section. Such

amount shall be used only to pay for the costs authorized in section 42-4-1202 (5), C.R.S. The court shall consider the alcohol and drug evaluation prior to sentencing. The provisions of this paragraph (f) are also applicable to any defendant who receives a deferred prosecution in accordance with section 16-7-401, C.R.S., or who receives a deferred sentence in accordance with section 16-7-403, C.R.S.

(f) For the purposes of this subsection (12), "alcohol and drug driving safety education or treatment" shall have the same meaning as that set forth in section 42-4-1301 (10), C.R.S., and the alcohol and drug driving safety program and the presentence alcohol and drug evaluations authorized therein shall be utilized for the purposes of this subsection (12). The presentence alcohol and drug evaluation shall be conducted on all persons convicted of a violation of subsection (1) of this section; except that this requirement shall not apply to persons who are not residents of Colorado at the time of sentencing. Any defendant sentenced to level I or level II education or treatment programs shall be instructed by the court to meet all financial obligations of such programs. If such financial obligations are not met, the sentencing court shall be notified for the purpose of collection or review and further action on the defendant's sentence. In addition to any other penalties, fines, fees, or costs prescribed in this section, the court shall assess an amount, not to exceed the amount established in section 42-4-1301 (10), C.R.S., upon any person convicted of a violation of subsection (1) of this section. Such amount shall be used only to pay for the costs authorized in section 42-4-1301 (10), C.R.S. The court shall consider the alcohol and drug evaluation prior to sentencing. The provisions of this paragraph (f) are also applicable to any defendant who receives a deferred prosecution in accordance with section 16-7-401, C.R.S., or who receives a deferred sentence in accordance with section 16-7-403, C.R.S.

(g) Upon a conviction for a first offense, in addition to any other penalties, fines, fees, or costs imposed for a violation of subsection (1) of this section, the court shall order the person to not operate a motorboat or sailboat for a three-month period. Upon a conviction for a second or subsequent offense, in addition to any other penalties, fines, fees, or costs imposed for a violation of subsection (1) of this section, the court shall order the person to not operate a motorboat or sailboat for a one-year period. For the purposes of this paragraph (g), "conviction" includes a conviction in any court of record or municipal court, a plea of no contest accepted by the court, or the forfeiture of any bail or collateral deposited to secure a defendant's appearance in court or the failure to appear in court by a defendant charged with a violation of subsection (1) of this section who has been issued a summons and complaint to appear pursuant to section 33-15-102 (2).

(h) Upon a plea of guilty or a verdict of guilty by the court or a jury to any offense specified in subsection (1) of this section, the court shall order the defendant to immediately report to the sheriff's department in the county where the defendant was convicted, at which time the defendant's fingerprints and photographs shall be taken and returned to the court, which fingerprints and photographs shall become a part of the court's official documents and records pertaining to the defendant's conviction and the defendant's identification in association with such conviction. In any trial for a violation of any of the offenses specified in subsection (1) of this section, a duly authenticated copy of the record of former convictions and judgments of any court of record for any of said crimes against the party indicted or informed against shall be prima facie evidence of such convictions and may be used in evidence against such party. Identification photographs and fingerprints that are part of the record of such former convictions and judgments of any court of record or are part of the record at the place of such party's incarceration after sentencing for any of such former convictions and judgments shall be prima facie evidence of the identity of such party and may be used in evidence against him. Any person who fails to immediately comply with the court's order to report to the sheriff's department, to furnish fingerprints, or to have his photographs taken may be held in contempt of court.

(13) (a) No owner or operator of a motorboat or sailboat shall knowingly authorize such motorboat or sailboat to be operated by or come under the actual physical control of any other person if such person is under the influence of alcohol, a controlled substance or any other drug, or any combination thereof.

(b) Any person who is convicted of a violation of paragraph (a) of this subsection (13) is guilty of a misdemeanor and, upon conviction thereof, shall be punished by imprisonment in the county jail for not more than one year, or by a fine of not less than one hundred dollars nor more than one thousand dollars, or by both such fine and imprisonment.

(14) In all actions, suits, and judicial proceedings in any court of this state concerning alcohol-related or drug-related boating offenses, the court shall take judicial notice of methods of testing a person's alcohol or drug level and of the design and operation of devices, as certified by the department of public health and environment, for testing a person's blood, breath, saliva, or urine to determine the alcohol or drug level. This subsection (14) shall not prevent the necessity of establishing during a trial that the testing devices used were in proper working order and that such testing devices were properly operated. Nothing in this subsection (14) shall preclude a defendant from offering evidence of the accuracy of the testing device.

(15) As used in this section, "convicted" includes a plea of no contest accepted by the court.

(16) (a) Upon conviction of or plea of no contest to a violation of this section, the court shall forward a certified copy of such conviction or plea to the division.

(b) When a peace officer requests a person to submit to tests as required by subsection (4) of this section and such person refuses to submit to such tests, the officer shall forward to the division a verified report of all relevant information, including information which adequately identifies such person and a statement of the officer's probable cause for requesting such person to submit to the tests.

33-13-108.2. Operating a motorboat or sailboat while the privilege to operate is suspended. (1) Any person who operates a motorboat or sailboat in this state at a time when a court-ordered suspension of his motorboat or sailboat operating privilege is in effect for a conviction of an alcohol- or drug-related operating offense pursuant to section 33-13-108.1 (1) is guilty of a misdemeanor and, upon conviction thereof, shall be punished by imprisonment in the county jail for not less than three days nor more than one hundred eighty days and, in the discretion of the court, by a fine of not less than three hundred dollars nor more than one thousand dollars. Upon a second or subsequent conviction, such person shall be punished by imprisonment in the county jail for not less than ninety days nor more than one year and, in the discretion of the court, by a fine of not less than five hundred dollars nor more than three thousand dollars. The minimum jail sentence imposed by this subsection (1) shall be mandatory, and the court shall not grant probation or a suspended sentence thereof; but, in a case where the defendant is convicted although he established that he had to operate the motorboat or sailboat in violation of this subsection (1) because of an emergency, the mandatory jail sentence shall not apply, and, for a conviction, the court may impose a sentence of imprisonment in the county jail for a period of not more than one year and, in the discretion of the court, a fine of not more than one thousand dollars, and, for a second or subsequent conviction, the court may impose a sentence of imprisonment in the county jail for a period of not more than two years and, in the discretion of the court, a fine of not more than three thousand dollars.

(2) In any trial in which a person is charged with a violation of subsection (1) of this section, a duly authenticated copy of the record of former convictions and judgments of any court of record against the party indicted or informed against for an alcohol- or drug-related motorboat or sailboat operating offense pursuant to section 33-13-108.1 shall be prima facie evidence of such convictions and judgments and may be used in evidence against such party. Identification photographs and fingerprints that are part of the record of such former convictions and judgments and such party's incarceration after sentencing for any of such former convictions and judgments shall be prima facie evidence of the identity of such party and may be used in evidence against him.

(3) Upon a second or subsequent conviction under subsection (1) of this section within five years after the first conviction thereunder, in addition to the penalty prescribed in said subsection (1), the court shall order the defendant to not operate a motorboat or sailboat in this state for a period of two years after such second or subsequent conviction.

(4) Upon conviction of or a plea of no contest to a violation of this section, the court shall forward a certified copy of such conviction or plea to the division.

33-13-108.3. Records to be kept by the division. The division shall file all abstracts of court records of convictions of violations of sections 33-13-108.1 and 33-13-108.2 and shall maintain a suitable alphabetical index for such file.

33-13-109. Collisions, accidents, and casualties. (1) The operator of a vessel involved in a collision, accident, or other casualty shall, so far as he can do so without serious danger to his own vessel, crew, and passengers, if any, render to other persons affected by the collision, accident, or casualty such assistance as may be practicable and necessary in order to save them from or to minimize any danger caused by the collision, accident, or other casualty, and he shall give his name and address and the identification of his vessel, including the name and address of the owner if different from that of the operator, in writing to any person injured and to the owner of any property damaged in the collision, accident, or other casualty.

(2) The board shall adopt rules and regulations concerning notification and reporting procedures to be followed in the case of a collision, accident, or other casualty involving a vessel or its equipment. Such regulations shall be consistent with applicable federal requirements.

(3) The owner or operator of a vessel involved in a collision, accident, or other casualty shall report the collision, accident, or casualty as provided in the rules and regulations of the board.

(4) All reports required under this section shall be without prejudice to the person making the report and shall be for the confidential use of the division; except that the division may disclose the identity of a person involved in an accident when such identity is not otherwise known or when such person denies his involvement in the accident. No such report shall be used as evidence in any trial, civil or criminal, arising out of the accident; except that the division shall furnish, upon demand of any person who has made or who claims to have made such report or upon demand of any court, a certificate showing that a specified report has or has not been made to the division, solely to prove a compliance with or a failure to comply with the reporting requirements of this section.

(5) Notwithstanding the provisions of subsection (4) of this section, in accordance with any request duly made by an authorized official or agency of the United States government, any information compiled by or otherwise available to the division pursuant to this article shall be made available to the official or agency of the United States government making such request.

(6) Any person who violates subsection (1) or (3) of this section is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of twenty-five dollars.

33-13-110. Water skis, aquaplanes, surfboards, innertubes, and similar devices. (1) (a) No person shall operate or manipulate any vessel, towrope, or other device by which the direction, speed, or location of water skis, an aquaplane, a surfboard, an innertube, or any similar device may be affected or controlled in such a way as to cause such device or any person thereon to collide with or strike against any object or person.

(b) No person shall operate, manipulate, or ride water skis, an aquaplane, a surfboard, an innertube, or any similar device towed behind a vessel in a careless or imprudent manner without due regard for other traffic and all other attendant circumstances on the water.

(c) Any person who violates this subsection (1) is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of fifty dollars.

(2) (a) Any person on water skis, an aquaplane, a surfboard, an innertube, or any similar device shall wear a personal flotation device.

(b) The board shall promulgate such rules and regulations as are necessary or desirable for the safe use of water skis, aquaplanes, surfboards, innertubes, and other similar devices.

(c) In addition, the board may promulgate rules and regulations to prohibit recreational activities pertaining to the use of all single-chambered air-inflated devices, including, but not limited to, innertubes and air mattresses, on rivers and streams when water conditions are considered dangerous to such activities and when bodily injury may result to participants of those activities.

(d) Any person who violates this subsection (2) is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of twenty-five dollars.

(3) (a) No person shall operate, manipulate, or ride water skis, an aquaplane, a surfboard, an innertube, or any similar device while under the influence of alcohol, a controlled substance as defined in section 12-22-303 (7), C.R.S., or any other drug, or any combination thereof, which renders him incapable of the safe operation of such device.

(b) Any person who violates this subsection (3) is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than one hundred dollars nor more than one thousand dollars, or by imprisonment in the county jail for not more than one year, or by both such fine and imprisonment.

33-13-111. Authority to close waters. (1) The board shall promulgate rules and regulations to prohibit the operation of vessels on any waters of the state and ordering the removal of vessels from any waters of the state when such operation constitutes or may constitute a hazard to human life or safety. For the purposes of this subsection (1), "vessel" shall not include white water canoes and kayaks. Nothing in this section shall be construed as to exempt white water canoes and kayaks from any other provisions of this article.

(2) Any parks and recreation officer or other peace officer as defined in section 33-10-102 has the authority to enforce the provisions of this section under the rules promulgated by the board.

(3) Any person who fails to obey an order issued under this section is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of fifty dollars.

33-13-112. Enforcement - applicability. (1) Every parks and recreation officer and other peace officer of this state has the authority to enforce the provisions of this article and, in the exercise thereof, has the authority to stop and board any vessel.

(2) The provisions of this article and the rules and regulations promulgated pursuant thereto shall apply to all waters of this state; except that such provisions shall not apply to standing bodies of water on private property which are used for private, noncommercial purposes.

33-13-113. Municipal corporations or organizations - powers. Nothing in this article shall be construed to prevent municipal corporations or quasi-municipal corporations, including, but not limited to, metropolitan recreation districts, from policing lakes or bodies of water located within all or part of the territorial boundaries of any such entities. Any person designated by such entities to engage in policing work upon said bodies of water may be commissioned by the division to enforce the provisions of this article as an authorized representative of the division. In addition, said entities shall also be empowered to charge and collect reasonable permit fees to defer the expense of such policing operations without the obligation of remitting such fees to the division, but such fees shall be in addition to those otherwise provided for in this article. Such entities are empowered to adopt and enforce reasonable rules and regulations governing the use of vessels on the bodies of water patrolled under their supervision if such rules and regulations do not conflict with the provisions of this article.

33-13-114. Copies of laws and regulations furnished. Upon the purchase or renewal of any registration required under this article, the owner of the vessel shall be furnished with a copy of the laws and rules and regulations affecting vessels. The expense of printing and distributing such laws and rules and regulations shall be borne by the division.

33-13-115. Termination of functions. The functions of registration and numbering of vessels by the division as set forth in this article are terminated on July 1, 1996. Prior to such termination, these functions shall be reviewed as provided for in section 24-34-104, C.R.S.