

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

DEPARTMENT: ATTORNEY GENERAL **STATE OF MINNESOTA**

OFFICE MEMORANDUM

DATE: April 25, 1991

TO: KIM ELVERUM
Boat and Water Safety Coordinator
Department of Natural Resources

FROM: MARY JO MURRAY
Special Assistant Attorney General
525 Park Street, Suite 500 (55103)

PHONE: 296-3258

SUBJECT: In the Matter of the Adopted Rule Relating to Boat and Water Safety

The above-referenced rule has been approved as to its legality by the Attorney General on April 24, 1991.

Enclosed is your copy of the approved rule. This office has already filed two copies with the Secretary of State, who will forward one copy to the Revisor of Statutes. The fourth is being retained by this division of the Attorney General's Office for its records.

Also enclosed are any petitions, requests, submissions or comments along with any extra copies of documents which you submitted to the Attorney General.

Your next step is to arrange for publication of the Notice of Adoption in the State Register. In a day or two, you should receive from the Revisor's Office three copies of the notice of adoption of your rule. You should submit two copies of the Notice of Adoption to the State Register for publication. A permanent rule without a hearing does not become effective until five days after a notice of adoption is published in the State Register in accordance with Minn. Stat. § 14.27. An emergency rule becomes effective five working days after approval by the Attorney General; however, the agency must publish a notice in the State Register in accordance with Minn. Stat. § 14.34.

If you have any questions in this regard, please contact me.

MJM:cy.am9
Enclosures
cc: A. W. Clapp III
William Brown, Chief Judge
MaryAnn Hruby

Department of Natural Resources

Adopted Permanent Rules Relating to Boat and Water Safety

Rules as Adopted

6110.0100 APPLICATION FOR WATERCRAFT LICENSE.

Application for watercraft license shall be made to the commissioner of natural resources or authorized agents on a form the commissioner shall provide. The commissioner may specify the information required on the application, including that which may be required by federal regulation. A watercraft license number and certificate shall be issued by the commissioner upon receipt of the fee prescribed by law.

6110.0300 DISPLAY OF LICENSE NUMBER AND VALIDATION DECAL ON MOTORIZED WATERCRAFT.

The license number on all watercraft, except nonmotorized canoes, kayaks, sailboats, sailboards, paddle boats, and rowing shells shall be securely affixed on each side of the forward half of the watercraft for which it was issued in such a position as to provide clear and legible identification. The letters and numerals must be of a color that contrasts with the background and may be decals or metal or may be painted. The letters and numerals shall read from left to right and shall not be less than three inches in height, of block type, of a stroke not less than one-half inch or more than three-fourths inch in width, not including a border. The license number shall be maintained so that it is clearly visible and legible, and the letter groups must be separated from the numeral groups by a space of not less than three inches nor more than four inches. Adjacent letters and numerals within each group must be spaced not less than one-half inch nor more than three-fourths inch apart. A state validation decal for the current license period must be affixed toward the stern of the boat and not more than four inches from the first or last letter of the license number on each side of the boat.

6110.1000 ENFORCEMENT PENNANT.

The pennant required under Minnesota Statutes, section 86B.805, subdivision 2, shall be triangular in shape and of the following dimensions: four inches in depth at the staff and one foot in length. The pennant shall be of a blue background and bear a three-inch replica of the Minnesota state seal.

6110.1200 NAVIGATION OF WATERCRAFT ON WATERS OF THE STATE; SAFETY EQUIPMENT.

[For text of subpart 1, see M.R.]

Subp. 2. **Mode of operation of watercraft.** Mode of operation:

A. No person shall operate a watercraft in such a manner that its wash or wake will endanger, harass, or unnecessarily interfere with any other person or property.

B. No person shall operate a watercraft in any manner as to intentionally obstruct or interfere with the takeoff, landing, or taxiing of any aircraft.

C. No person shall operate a watercraft within 150 feet of a diver's warning flag (described in Minnesota Statutes, section 86B.601).

D. No person shall operate a watercraft in the vicinity of a lock and dam on the Mississippi River from Upper St. Anthony Falls through Lock and Dam Number Eight in violation of the following:

(1) In the marked restricted area 600 feet upstream or 150 feet downstream of the dam, including auxiliary locks not in service.

(2) At greater than a slow-no wake speed in the lock or lock approach area. "Slow-no wake," means the operation of a watercraft at the slowest possible speed necessary to maintain steerage, and in no case greater than five miles per hour.

(3) Enforcement, emergency, resource management, and other government personnel or contractors are exempt from this part when performing official duties or authorized work.

E. The operator of any watercraft, when signaled to do so by a conservation officer, sheriff, or sheriff's deputy shall bring the watercraft to a stop or maneuver it in a manner which will allow the officer to come alongside.

[For text of subps 3 to 6, see M.R.]

Subp. 7. **Lighting equipment.** Lighting equipment:

A. All motorized watercraft must display the correct lights for their class from sunset to sunrise when underway or at anchor.

Red and green lights must be visible at a distance of one mile and white lights at a distance of two miles.

B. The following terms are defined for the purpose of these rules:

(1) "Aft" means to the rear of the midlength measured from end to end of the hull over the deck excluding sheer.

(2) "All-round light" means a white light visible in an unbroken horizontal arc of 360 degrees.

(3) "Combination light" means a single fixture showing green to starboard and red to port, visible in an unbroken horizontal arc from dead ahead to 22.5 degrees abaft the beam on its respective side.

(4) "Forward" means forward of the midlength measured from end to end of the hull over the deck excluding sheer.

(5) "Masthead light" means a white light visible in an unbroken horizontal arc of 225 degrees, placed at or near the centerline of the watercraft. The light must be visible from dead ahead to 22.5 degrees abaft the beam on both sides of the watercraft. On motorboats less than 40 feet in length, this light must be at least three feet higher than the red and green lights. On motorboats 40 feet or more in length, this light must be at least nine feet above the gunwale.

(6) "Side lights" means separate fixtures, the one on the starboard side showing green and the one on the port side showing red, visible in an unbroken horizontal arc from

dead ahead to 22.5 degrees abaft the beam on its respective side.

(7) "At the stem and at the stern" means as nearly as practicable at the stem and at the stern, respectively.

(8) "Stern light" means a white light placed at the stern, visible in an unbroken horizontal arc of 135 degrees. The light must be visible from dead astern to 22.5 degrees abaft the beam on both sides of the watercraft.

(9) "Visible," when applied to lights, means visible on a dark night with clear atmosphere. The prescribed visibility means minimum visibility, and does not restrict greater distance of visibility, provided that the navigation lights are primarily intended for navigation purposes and will not be confused with other lights.

C. The lighting system on each watercraft must be chosen from either subitem (1) or (2):

(1) Motorboats less than 40 feet in length must display the following:

(a) a combination light or separate sidelights and an all-round light at the stern when underway and not anchored; and

(b) an all-round light when anchored.

(2) Motorboats of any length must display the following:

(a) a combination light or separate sidelights, a masthead light, and a stern light when underway and not anchored; and

(b) an all-round light when anchored.

D. All nonmotorized watercraft when under way or anchored, between sunset and sunrise, shall carry aboard but not necessarily fixed to any part of the watercraft a minimum of one lantern or flashlight capable of showing a white light visible all around the horizon at a distance of two miles or more. The light or lantern shall be displayed in sufficient time to avoid collision with another watercraft.

E. When a watercraft is moored to a buoy authorized by a permit issued under part 6110.1800 it shall not be required

to display the anchor light required in items C and D.

6110.1400 CAPACITY PLATE INFORMATION REQUIREMENTS FOR WATERCRAFT CONSTRUCTED ON OR AFTER AUGUST 1, 1980.

[For text of subps 1 and 2, see M.R.]

Subp. 3. **Definitions.** The terms "safe power capacity" and "safe carrying capacity" used in Minnesota Statutes, section 86B.311, subdivision 1, shall be that capacity displayed on the manufacturer's capacity plate. If no such plate exists, the method referred to in either part 6110.1300, items B and C, or 6110.1400, subpart 2 shall be used to determine the capacity.

6110.1500 WATERWAY MARKERS.

[For text of subpart 1, see M.R.]

Subp. 2. **Channel marker buoys.** Channel marker buoys:

A. Every channel marker buoy shall have the external form of a cylinder having a circular transverse cross-section not less than nine inches in diameter. Channel markers must extend at least 36 inches above the water.

B. Where channel marker buoys are placed to indicate the location of a well defined boating channel, an all green buoy and an all red buoy shall be placed in opposition to each other to indicate the course of the channel is located between them. The red buoy or marker shall be situated on the right side of the channel when heading towards shore, or when heading upstream. A green flashing light shall be used in conjunction with a green buoy if it is to be lighted. When reflectorization is used with a green buoy, it shall be green in color and no less than a three-inch wide strip shall completely surround the buoy and shall be located at the top of the buoy. Number designations shall be odd. A red flashing light shall be used in conjunction with a red buoy if it is to be lighted. When reflectorization is used with a red buoy, it shall be red in color and no less than a three-inch wide strip shall completely surround the buoy and shall be located at the top of the buoy. Number designations shall be even.

[For text of subps 3 and 4, see M.R.]

Subp. 5. **Regulatory and information signs and buoys.** Regulatory and information signs and buoys:

[For text of items A to F, see M.R.]

G. No person shall operate any motor vehicle, snowmobile, all-terrain vehicle, ice boat, or any other conveyance used to transport persons over the ice on public waters of the state within 150 feet of a diver's warning flag described in Minnesota Statutes, section 86B.601.

[For text of items H and I, see M.R.]

J. Any sign may be reflectorized or fluorescent provided that the entire displayed surface is uniformly reflectorized or fluorescent.

[For text of item K, see M.R.]

Subp. 6. [See repealer.]

Subp. 7. **Milfoil areas.** Buoys or signs indicating an area that is infested with Eurasian water milfoil may be marked using a solid yellow sign or buoy. If a buoy is used, it shall be no less than four inches in diameter and extend at least 30 inches above the surface of the water. The words "Milfoil" or Milfoil Area" must appear on opposing sides of the buoy in at least two-inch high black letters. If a sign is used, it shall be no more than 12 inches in width or more than 18 inches in height and extend at least 30 inches above the surface of the water at normal high water level. The words "Milfoil" or "Milfoil Area" must appear on the sign in at least two-inch high black letters.

Subp. 8. **Exceptions.** Whenever an emergency situation requires that immediate warning be given of a hazardous condition, any appropriate marker may be used until such time as the emergency ceases to exist or until a marker complying with these rules can be obtained. In addition, the commissioner or designee may exempt specific types of waterway markers or buoys from the dimensional requirements of this part where safety would not be adversely affected and may also designate buoys or markers for purposes not previously set forth in this part.

6110.1800 PLACEMENT OF TEMPORARY STRUCTURES AND BUOYS IN THE

WATERS OF THE STATE.

[For text of subpart 1, see M.R.]

Subp. 2. **Permit for temporary structure or buoy.** The sheriff of any county may issue a permit for the placement of any such structure or buoy whenever, in the sheriff's opinion, the structure or buoy will not constitute an undue hazard to or illegal obstruction of navigation.

Each structure or navigational buoy placed pursuant to such permit shall have the permit number painted on it and shall have attached either a light visible in all directions, or sufficient reflectorized material so as to reflect light from all directions, which material shall retain 80 percent of its dry weather reflective signal strength when submerged in water.

Nothing in this part shall be construed to affect the provisions of Minnesota Statutes, section 103G.245, or the requirements for permits from the commissioner of natural resources thereunder, nor shall this part be construed to affect the construction of blinds built according to Minnesota Statutes, sections 97B.805 and 97B.811.

6110.1900 REPORTS.

Subpart 1. **Accident reports.** Each county sheriff shall report to the commissioner of natural resources:

A. each watercraft accident involving either a fatality, personal injury requiring treatment beyond first aid, or property damage that totals more than $500; and

B. all drownings.

Reports shall be submitted on forms provided by the commissioner and forwarded within ten days of the accident.

Subp. 2. **Other reports.** Each county sheriff shall maintain copies of watercraft citations or written warnings and rental boat inspection reports for a minimum of three years following the year in which they were issued or completed.

6110.2100 REIMBURSEMENT OF COUNTY SHERIFFS FOR SEARCH AND RESCUE OPERATIONS.

Payments for annual appropriations for search and rescue

operations shall be made pursuant to the provisions hereof in order of presentation until expended.

A search and rescue operation resulting from or related to water-related recreational activities will qualify for reimbursement if the incident necessitating the operation is of an unusual and nonrecurring nature. Reimbursable items of expense are those which are over and above the sheriff's regular operating budget, and include rental of private equipment and employment of personnel hired expressly for the search and rescue operation.

Payment by the state is limited to 50 percent of the reimbursable items of expense, subject to maximum state payment of $2,500 for each search and rescue operation.

A sheriff claiming reimbursement shall submit in duplicate an itemized invoice, verified by the county auditor, together with a statement showing that the operation qualified for reimbursement, to the Department of Natural Resources. All claims will be subject to audit by the state.

REPEALER. Minnesota Rules, parts 6110.1500, subpart 6 and 6110.1600, subpart 3, are repealed.

APPROVED AS TO FORM AND LEGALITY

April 24 1991

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

BY _____
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
APR 24 1991
Joan Anderson Growe
Secretary of State
4:08 A.M.
M

Stat Authority
86B.211

The commissioner shall adopt rules and publish the rules in the manner prescribed in section 97A.051, subdivision 3 that relate to ... Water safety

Notice of Intent
missing E (11) - proposed rule is attached to the notice or a statement describing the nature and effect of the proposed rule.
Heading ~~states~~ "Amendment Relating to Boat and Water Safety" - no statement how you can get the rule
(Is this enough of a ~~summary~~ summary?)
NO. But copy of rule was mailed out w/notice, even though affadavit + notice don't say so. (Debbie) 4/23, 6-3310)

Statement of Need and Reasonableness
~~no justification for 6110.1200 subd (C)~~
why change two points to 22.5 degrees
6110.1300 subd 7 is weak on why the changes are needed and reasonable.
Apparently they rules now mimic the federal law but our is not particularly articulate

STATE OF MINNESOTA

DEPARTMENT OF NATURAL RESOURCES

In the matter of the proposed rule amendments for Boat and Water Safety.

CERTIFICATE OF MAILING LIST AND AFFIDAVIT OF MAILING

STATE OF MINNESOTA)
)ss.
COUNTY OF RAMSEY)

F. Andrew Brewer, being sworn says:

I hereby certify that the list of persons and associations who have requested, pursuant to Minnesota Statutes, section 14.14, subdivision 1a and 14.22 or 14.30, that their names be placed on the Department of Natural Resources rulemaking mailing list is accurate, complete, and current as of this 19th day of Feb., 1991.

F. Andrew Brewer
Name
Director of Legislative & Regulatory Services-DNR
Title

Deborah A. Ethier, being sworn says:

That on the Feb. day of 27, 1991, at the city of St. Paul, County of Ramsey, State of Minnesota, I mailed the attached Notice of Intent to Adopt a Rule Amendment Without a Public Hearing by depositing in the State of Minnesota Central Mailing System for United States mailing, a copy thereof, with postage prepaid, to all persons and associations on the aforementioned mailing list.

Deborah A. Ethier
Name
Boat & Water Safety Secretary
Title

Subscribed and sworn to before me this 22 day of February 1991.

Margaret M Winkel

MARGARET M. WINKEL
NOTARY PUBLIC - MINNESOTA
RAMSEY COUNTY
My Commission Expires Jan. 9, 1995

A. M. Twilley
Env. Control & Energy Dept.
Ford Motor Company
Automotive Assembly Division
17000 Oakwood Blvd.
Allen Park, Mich. 48121

[redacted]
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MN Gas Company, Legal Division
701 2nd Avenue S.
Minneapolis, MN 55402

Bob Franklin, City Editor
Minneapolis Tribune
425 Portland Avenue
Minneapolis, MN 55488

Sam Ruhle
Office of Adminis. Hearings
400 Summit Bank Bldg.
310 South 4th Avenue
Minneapolis, MN 55415

[redacted]

Antitrust Division
MN Attorney General's Office
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Courthouse, 4th Floor
Anoka, MN 55303

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Minneapolis, MN 55409

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515 S. Washington
Albert Lea, MN 56007

[redacted]

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Hines, MN 56647

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U of M-Physical Plant Dept.
200 Shops Bldg.
319 15th Avenue SE
Minneapolis, MN 55455

Wayne H. Olson, Esq.
Olson, Gunn & Seran, Ltd.
315 Peavey Bldg.
730 Second Avenue S.
Minneapolis, MN 55402

[redacted]

Robert Bollant
City of Winona
City Hall
4th & Lafayette St.
Winona, MN 55987

Marylee Fithian, Director
Development Disabilities Plan.
200 Capitol Square Bldg.
INTEROFFICE

[redacted]

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Community Health Services Brd.
325 Lake Avenue S., Suite 604
Duluth, MN 55802

Frank Mixa, Executive Director
Lake Mtka. Conservation Dist.
402 E. Lake Street
Wayzata, MN 55391

Anoka Co. Community Health &
Social Services Dept.
c/o Robert H. Hutchinson
Courthouse - 4th Floor
Anoka, MN 55303

Mr. Reynold S. Rahko, Mgr.
Projects Coordinating Division
United Power Association
Elk River, MN 55330

General Mills, Inc.
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Minneapolis, MN 55440

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Duluth, MN 55802

Richard Kramer
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St. Paul, MN 55106

[redacted]

City of Brooklyn Center
Brad Hoffman
6301 Shingle Creek Parkway
Brooklyn Center, MN 55430

Steve Chadwick
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Minnesota Woodlands
Boise Cascade Corporation
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Ellsworth, WI 54011

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Roseau County Auditor
Roseau, MN 56751

Roseau County Board Chairman
Roseau, MN 56751

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Doran Korner
Star
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[redacted]

John Brooks, Jr.
RR1, Box 115
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Department of Natural Resources

Proposed Rule Amendment Relating to Boat and Water Safety

Notice of Intent to Amend a Rule Without a Public Hearing

(1) **NOTICE IS HEREBY GIVEN** that the Minnesota Department of Natural Resources intends to adopt an amendment to the above-referenced rule without public hearing following the procedures set forth in the Administrative Procedures Act for adopting rules without a public hearing in Minnesota Statutes, section 14.22-14.28. Authority for the amendment of these rules is contained in Minnesota Statutes, § 86B.211.

(2) All persons have 30 days to submit comments in support of or in opposition to the rule or any part or subpart of the rule. Comment is encouraged. (3) Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any changed proposed. (8) The proposed rules may be modified if the modifications are supported by the data and views submitted to the Department and do not result in a substantial change.

Any person may make a written request for a public hearing within the 30-day comment period. (4) If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. (6) Any person requesting a hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. (7) If a public hearing is required, the department will proceed pursuant to Minnesota Statutes, Section 14.13 to 14.20.

(5) Persons who wish to submit comments or a written request for a public hearing should submit them to:

Kim A. Elverum
Minnesota Department of Natural Resources
500 Lafayette Road
St. Paul, MN 55155-4046

(12) A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed

rules has been prepared and is available free, upon request from Kim A. Elverum.

(9) If no hearing is required, upon adoption of the rule, the rule and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of the submission of this material to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rule, must submit a written request to Kim A. Elverum.

(13)(14) The Department does not anticipate that this rule amendment will have any impact on small business or agricultural land, or require the additional expenditure of funds by local public bodies.

2/14/91
Date

by Ronald Nargang, Deputy
Rodney W. Sando
Commissioner
Minnesota Department of Natural Resources

Department of Natural Resources

Proposed Permanent Rules Relating to Boat and Water Safety

Rules as Proposed

6110.0100 APPLICATION FOR WATERCRAFT LICENSE.

Application for watercraft license shall be made to the commissioner of natural resources or ~~his~~ authorized agents on a form ~~he~~ the commissioner shall provide. The commissioner may specify the information required on the application, including that which may be required by federal regulation. A watercraft license number and certificate shall be issued by the commissioner upon receipt of the fee prescribed by law.

6110.0300 DISPLAY OF LICENSE NUMBER AND VALIDATION DECAL ON MOTORIZED WATERCRAFT.

The license number on all watercraft, except nonmotorized canoes, kayaks, sailboats, sailboards, paddle boats, and rowing shells shall be securely affixed on each side of the forward half of the watercraft for which it was issued in such a position as to provide clear and legible identification. The letters and numerals must be of a color that contrasts with the background and may be ~~reflectorized~~ decals or metal or may be painted. The letters and numerals shall read from left to right and shall not be less than three inches in height, of block type, of a stroke not less than one-half inch or more than three-fourths inch in width, not including a border. The license number shall be maintained so that it is clearly visible and legible, and the letter groups must be separated from the numeral groups by a space of not less than three inches nor more than four inches. Adjacent letters and numerals within each group must be spaced not less than one-half inch nor more than three-fourths inch apart. A state validation decal for the current license period must be affixed toward the stern of the boat and not more than four inches from the first or last letter of the license number on each side of the boat.

Approved by Revisor PER

6110.1000 ENFORCEMENT PENNANT.

The pennant required under Minnesota Statutes, section ~~361.215~~ 86B.805, subdivision 2, shall be triangular in shape and of the following dimensions: four inches in depth at the staff and one foot in length. The pennant shall be of a blue background and bear a three-inch replica of the Minnesota state seal.

6110.1200 NAVIGATION OF WATERCRAFT ON ~~THE~~ WATERS OF THE STATE; SAFETY EQUIPMENT.

[For text of subpart 1, see M.R.]

Subp. 2. **Mode of operation of watercraft.** Mode of operation:

A. No person shall operate a watercraft in such a manner that its wash or wake will endanger, harass, or unnecessarily interfere with any other person or property.

B. No person shall operate a watercraft in any manner as to intentionally obstruct or interfere with the takeoff, landing, or taxiing of any aircraft.

C. No person shall operate a watercraft within 150 feet of a diver's warning flag (described in Minnesota Statutes, section ~~361.085~~ 86B.601).

D. No person shall operate a watercraft in the vicinity of a lock and dam on the Mississippi River from Upper St. Anthony Falls through Lock and Dam Number Eight in violation of the following:

(1) In the marked restricted area 600 feet upstream or 150 feet downstream of the dam, including auxiliary locks not in service.

(2) At greater than a slow-no wake speed in the lock or lock approach area. "Slow-no wake," means the operation of a watercraft at the slowest possible speed necessary to maintain steerage, and in no case greater than five miles per hour.

(3) Enforcement, emergency, resource management, and other government personnel or contractors are exempt from

Approved
by Revisor _____

this part when performing official duties or authorized work.

E. The operator of any watercraft, when signaled to do so by a conservation officer, sheriff, or sheriff's deputy shall bring the watercraft to a stop or maneuver it in a manner which will allow the officer to come alongside.

[For text of subps 3 to 6, see M.R.]

Subp. 7. **Lighting equipment.** Lighting equipment:

~~A. All motorized watercraft will be classified for lighting requirements in the following manner:~~

~~(1) Class A: under 16 feet in length;~~

~~(2) Class 1: 16 feet to less than 26 feet;~~

~~(3) Class 2: 26 feet to less than 40 feet;~~

~~(4) Class 3: 40 feet to 65 feet.~~

~~B.~~ All motorized watercraft must display the correct lights for their class from sunset to sunrise when underway or at anchor.

~~The system of lighting may be chosen from either the International Rules light Requirements found in item D, or the Inland Rules light Requirements found in items E and F.~~ Red and green lights must be visible at a distance of one mile and white lights at a distance of two miles.

~~C.~~ B. The following terms are defined for the purpose of these rules:

(1) "Aft:" means to the rear of the midlength measured from end to end of the hull over the deck excluding sheer.

(2) "All-round light" means a white light visible in an unbroken horizontal arc of 360 degrees.

(3) ~~Combined lantern:~~ "Combination light" means a single fixture showing green to starboard and red to port, visible in an unbroken horizontal arc from dead ahead to ~~two points~~ 22.5 degrees abaft the beam on ~~their~~ its respective ~~sides~~ side.

~~(3)~~ (4) "Forward:" means forward of the midlength measured from end to end of the hull over the deck excluding sheer.

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~~(4) Higher than or lower than: a higher level or lower level, respectively, than another light under any normal conditions of trim under way or stopped in smooth water.~~

~~(5) Point: one point of the compass (11 1/4 degrees) when specifying the arc of visibility of a light.~~ "Masthead light" means a white light visible in an unbroken horizontal arc of 225 degrees, placed at or near the centerline of the watercraft. The light must be visible from dead ahead to 22.5 degrees abaft the beam on both sides of the watercraft. On motorboats less than 40 feet in length, this light must be at least three feet higher than the red and green lights. On motorboats 40 feet or more in length, this light must be at least nine feet above the gunwale.

(6) "Side lights~~:~~" means separate fixtures, the one on the starboard side showing green and the one on the port side showing red, visible in an unbroken horizontal arc from dead ahead to ~~two points~~ 22.5 degrees abaft the beam on ~~their~~ its respective ~~sides~~ side.

(7) "At the stem and at the stern~~:~~" means as nearly as practicable at the stem and at the stern, respectively.

(8) "Stern light" means a white light placed at the stern, visible in an unbroken horizontal arc of 135 degrees. The light must be visible from dead astern to 22.5 degrees abaft the beam on both sides of the watercraft.

(9) "Visible~~:~~," when applied to lights, means visible on a dark night with clear atmosphere. The prescribed visibility means minimum visibility, and does not restrict greater distance of visibility, provided that the navigation lights are primarily intended for navigation purposes and will not be confused with other lights.

~~D. International Rules light Requirements for motorized watercraft:~~

~~(1) Separate 10 point red (port or left) and green (starboard or right) side lights showing from dead ahead to two points abaft the beam, or a 20 point combination of red green light showing red from ahead to two points abaft the~~

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~~port-beam-and-green-from-ahead-to-two-points-abaft-the-starboard beam.--The-red-and-green-lights-shall-be-visible-at-a-distance of-at-least-one-mile.~~

~~(2) A 20-point white light forward, showing ten points on each side, placed at least three feet above the red-green lights and visible at a distance of at least three miles.--On vessels 40 feet to less than 65 feet long the 20-point white light must also be at least nine feet above the gunwale.~~

~~(3) A 12-point white light aft, showing six points on each side and visible at a distance of at least two miles.--Motor-powered watercraft of Class A or 1 may carry this light off the center line.~~

~~(4) When at anchor, a 32-point white light, visible at a distance of at least one mile all around the horizon.~~

~~E.--Inland Rules Light Requirements for Classes A and 1.~~

~~(1) a 20-point combination red-green bow light as described in item D, subitem (1);~~

~~(2) a 32-point bright white light aft to show all around the horizon located above the red-green combination lights and visible at a distance of at least two miles;~~

~~(3) the 32-point white light aft may be located off center line;~~

~~(4) when at anchor, a 32-point white light, visible at a distance of at least one mile all around the horizon.~~

~~F.--Inland Rules Light Requirements for Classes 2 and 3.~~

~~(1) separate ten-point red and green side lights showing from dead ahead to two points abaft the beam and visible at a distance of at least one mile;~~

~~(2) a 20-point white light as near the stem as possible showing ten points on each side and visible at a distance of at least two miles;~~

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~~(3) a 32-point bright white light aft to show all around the horizon, visible at a distance of at least two miles and located higher than the 20-point white light forward;~~

~~(4) when at anchor, a 32-point white light, visible at a distance of at least one mile all around the horizon.~~

~~G. All watercraft over 65 feet in length must display the lights required by item D.~~

C. The lighting system on each watercraft must be chosen from either subitem (1) or (2):

(1) Motorboats less than 40 feet in length must display the following:

(a) a combination light or separate sidelights and an all-round light at the stern when underway and not anchored; and

(b) an all-round light when anchored.

(2) Motorboats of any length must display the following:

(a) a combination light or separate sidelights, a masthead light, and a stern light when underway and not anchored; and

(b) an all-round light when anchored.

~~H.~~ D. All nonmotorized watercraft when under way or anchored, between sunset and sunrise, shall carry aboard but not necessarily fixed to any part of the watercraft a minimum of one lantern or flashlight capable of showing a white light visible all around the horizon at a distance of two miles or more. ~~Such~~ The light or lantern shall be displayed in sufficient time to avoid collision with another watercraft.

~~I.~~ E. When a watercraft is moored to a buoy authorized by a permit issued under part 6110.1800 it shall not be required to display the ~~32-point~~ anchor light required in items C and D ~~to~~ H.

6110.1400 CAPACITY PLATE INFORMATION REQUIREMENTS FOR WATERCRAFT CONSTRUCTED ON OR AFTER AUGUST 1, 1980.

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[For text of subps 1 and 2, see M.R.]

Subp. 3. **Definitions.** The terms "safe power capacity" and "safe carrying capacity" used in Minnesota Statutes, section ~~361.05, clause (4)~~ 86B.311, subdivision 1, shall be that capacity displayed on the manufacturer's capacity plate. If no such plate exists, the method referred to in either part 6110.1300, items B and C, or 6110.1400, subpart 2 shall be used to determine the capacity.

6110.1500 WATERWAY MARKERS.

[For text of subpart 1, see M.R.]

Subp. 2. **Channel marker buoys.** Channel marker buoys:

A. Every channel marker buoy shall have the external form of a cylinder having a circular transverse cross-section not less than nine inches in diameter. ~~All such~~ Channel markers must extend at least 36 inches above the water.

B. Where channel marker buoys are placed to indicate the location of a well defined boating channel, an all green buoy and an all red buoy shall be placed in opposition to each other to indicate the course of the channel is located between them. ~~In flowing water, the red buoy shall be situated on the right side of the channel when facing upstream.~~ The red buoy or marker shall be situated on the right side of the channel when heading towards shore, or when heading upstream. A green flashing light shall be used in conjunction with a green buoy if it is to be lighted. When reflectorization is used with a green buoy, it shall be green in color and no less than a ~~four-inch~~ three-inch wide strip shall completely surround the buoy and shall be located at the top of the buoy. Number designations shall be odd. A red flashing light shall be used in conjunction with a red buoy if it is to be lighted. When reflectorization is used with a red buoy, it shall be red in color and no less than a ~~four-inch~~ three-inch wide strip shall completely surround the buoy and shall be located at the top of the buoy. Number designations shall be even. ~~Existing black buoys may be used through December 31, 1987.~~

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~~C.--To-indicate-a-watercraft-should-pass-to-south-or west,-where-there-is-no-well-defined-channel,-a-buoy-shall-have the-top-surface-and-upper-five-inches-colored-red-and-the remainder-colored-white.--If-the-buoy-is-reflectorized,-it-shall be-done-with-a-white-strip,-no-less-than-four-inches-in-width, that-completely-encircles-the-buoy-and-it-shall-be-placed directly-under-the-red-top.--A-white-quick-flashing-light-shall be-used-if-the-buoy-is-lighted.~~

~~D.--To-indicate-a-watercraft-should-pass-to-the-north or-east,-where-there-is-no-well-defined-channel,-a-buoy-shall have-the-top-surface-and-the-upper-five-inches-colored-black-and the-remainder-colored-white.--If-the-buoy-is-reflectorized,-it shall-be-done-with-a-white-strip-no-less-than-four-inches-in width-that-completely-encircles-the-buoy-and-it-shall-be-placed directly-under-the-black-top.--A-white-quick-flashing-light shall-be-used-if-the-buoy-is-lighted.~~

[For text of subps 3 and 4, see M.R.]

Subp. 5. **Regulatory and information signs and buoys.** Regulatory and information signs and buoys:

[For text of items A to F, see M.R.]

G. No person shall operate any motor vehicle, snowmobile, all-terrain vehicle, ice boat, or any other conveyance used to transport persons over the ice on public waters of the state within 150 feet of a diver's warning flag described in Minnesota Statutes, section ~~361.085~~ 86B.601.

[For text of items H and I, see M.R.]

J. Any sign may be reflectorized or fluorescent provided that the entire displayed surface ~~thereof~~ is uniformly reflectorized or fluorescent.

[For text of item K, see M.R.]

~~L.--Whenever-an-emergency-situation-requires-that immediate-warning-be-given-of-any-hazardous-condition-on-any waters-of-the-state,-any-available-object-or-apparatus-may-be utilized-as-a-temporary-waterway-marker-to-give-such-warning until-the-emergency-ceases-to-exist-or-until-a-marker-complying with-these-regulations-can-be-substituted-therefor.~~

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Subp. 6. [See repealer.]

Subp. 7. **Milfoil areas.** Buoys or signs indicating an area that is infested with Eurasian water milfoil may be marked using a solid yellow sign or buoy. If a buoy is used, it shall be no less than four inches in diameter and extend at least 30 inches above the surface of the water. The words "Milfoil" or Milfoil Area" must appear on opposing sides of the buoy in at least two-inch high black letters. If a sign is used, it shall be no more than 12 inches in width or more than 18 inches in height and extend at least 30 inches above the surface of the water at normal high water level. The words "Milfoil" or "Milfoil Area" must appear on the sign in at least two-inch high black letters.

Subp. 8. **Exceptions.** Whenever an emergency situation requires that immediate warning be given of a hazardous condition, any appropriate marker may be used until such time as the emergency ceases to exist or until a marker complying with these rules can be obtained. In addition, the commissioner or designee may exempt specific types of waterway markers or buoys from the dimensional requirements of this part where safety would not be adversely affected and may also designate buoys or markers for purposes not previously set forth in this part.

6110.1800 PLACEMENT OF TEMPORARY STRUCTURES AND BUOYS IN THE WATERS OF THE STATE.

[For text of subpart 1, see M.R.]

Subp. 2. **Permit for temporary structure or buoy.** The sheriff of any county may issue a permit for the placement of any such structure or buoy whenever, in ~~his~~ the sheriff's opinion, the structure or buoy will not constitute an undue hazard to or illegal obstruction of navigation.

Each structure or navigational buoy placed pursuant to such permit shall have the permit number painted ~~thereon~~ on it and shall have attached either a light visible in all directions, or sufficient reflectorized material so as to reflect light from all directions, which material shall retain 80 percent of its dry weather reflective signal strength when submerged in water.

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Nothing in this ~~rule~~ part shall be construed to affect the provisions of Minnesota Statutes ~~1969~~, section ~~105.42~~ 103G.245, or the requirements for permits from the commissioner of natural resources thereunder, nor shall this ~~rule~~ part be construed to affect the construction of blinds built ~~in-accordance-with-the provisions-of~~ according to Minnesota Statutes ~~1969, section 100.29, subdivision 17~~ sections 97B.805 and 97B.811.

6110.1900 ~~ACCIDENT~~ REPORTS.

~~Each-county-sheriff-shall-report-to-the-commissioner-of natural-resources-promptly,-on-forms-provided-by-the commissioner,-each-accident-involving-a-watercraft,-and-every drowning,-in-order-to-properly-evaluate-the-water-safety program.--In-the-event-of-death,-the-report-shall-be-made-within 48-hours;-in-event-of-serious-injury-which-incapacitates-the victim-for-more-than-72-hours-or-involves-property-damage-of over-$200-report-must-be-made-within-five-days.--Each-charge-of a-violation-of-law-made-against-a-watercraft-operator-and-each written-warning-thereof-shall-be-reported.--Each-watercraft-for hire-which-does-not-comply-with-the-standards-of-safety-for-such watercraft-shall-also-be-reported.~~

Subpart 1. **Accident reports.** Each county sheriff shall report to the commissioner of natural resources:

A. each watercraft accident involving either a fatality, personal injury requiring treatment beyond first aid, or property damage that totals more than $500; and

B. all drownings.

Reports shall be submitted on forms provided by the commissioner and forwarded within ten days of the accident.

Subp. 2. **Other reports.** Each county sheriff shall maintain copies of watercraft citations or written warnings and rental boat inspection reports for a minimum of three years following the year in which they were issued or completed.

6110.2100 REIMBURSEMENT OF COUNTY SHERIFFS FOR SEARCH AND RESCUE OPERATIONS.

Payments for annual appropriations for search and rescue

Approved by Revisor _____

operations shall be made pursuant to the provisions hereof in order of presentation until expended.

A search and rescue operation resulting from or related to ~~outdoor~~ water-related recreational activities will qualify for reimbursement if the incident necessitating the operation is of an unusual and nonrecurring nature. Reimbursable items of expense are those which are over and above the sheriff's regular operating budget, and include rental of private equipment and employment of personnel hired expressly for the search and rescue operation.

Payment by the state is limited to 50 percent of the reimbursable items of expense, subject to maximum state payment of $2,500 for each search and rescue operation.

A sheriff claiming reimbursement shall submit in duplicate an itemized invoice, verified by the county auditor, together with a statement showing that the operation qualified for reimbursement, to the Department of Natural Resources. All claims will be subject to audit by the state.

REPEALER. Minnesota Rules, parts 6110.1500, subpart 6 and 6110.1600, subpart 3, are repealed.

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Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Boat and Water Safety

AGENCY: Department of Natural Resources

MINNESOTA RULES: Chapter 6110

The attached rules are approved for publication in the State Register

Paul E. Rohde
Senior Assistant Revisor

In the Matter of Rules
Relating to Boat and
Water Safety

DECLARATION OF COUNSEL

I have examined the above-captioned rule and the supporting rule-making record. Based on that examination, I have concluded that the statutes and rules regarding rule making have been followed.

DATE: April 9, 1991

HUBERT H. HUMPHREY, III
Attorney General
State of Minnesota

By: A. W. Clapp III

A. W. CLAPP III
Special Assistant
Attorney General
Atty. Reg. No. 17036
Suite 200
520 Lafayette Road
St. Paul, Minnesota 55155
Telephone: (612) 296-0686

45 calendar days of the deadline established by waiver in subpart 3 or within 45 calendar days of the deadline provided in subpart 2 where a waiver was not granted, the department will deny the application under subpart 6. If a submitted application remains incomplete or noncomplying for 30 calendar days after the department's request for a revision of the application, supplementary information, or other required documents or 45 calendar days from an applicable deadline, whichever period is greater, the department will deny the application under subpart 6.

Subp. 6. **Denial of application.** Before the department denies an application, it will, as soon as possible, provide written notification of the deficiency leading to a possible denial and, where appropriate, request a revision of the application, supplementary information or other required documents. An application will be denied if any of the following occur:

A. application is submitted after the deadlines in subpart 5;

B. applicant submits an incomplete application;

C. applicant submits a noncomplying application where:

(1) applicant's annual work plan activities are:

(a) inconsistent with community action program activity as defined in the act and part 3350.0110;

(b) not demonstrative of participation by low income persons as required by part 3350.0120; or

(c) inconsistent with the local planning process in part 3350.0130;

(2) applicant cannot demonstrate adequate fiscal management capabilities as required in part 3350.0170; or

(3) applicant's budget does not support, or is inconsistent with, the work plan activities; or

D. applicant, after a period of funding termination, has not remedied a long-term defect that first led to withholding under part 3350.0100, subpart 2.

The department's denial of an application based on items A, B, and C is cause for termination of available funds for an entire program year under part 3350.0060, subpart 1, item F. Depending on the circumstances, the department's denial of an application based on item D is cause for termination of available funds for an entire program year or all future funding.

3350.0180 SUBGRANTEES.

All grantees will obtain written approval from the department before delegating any part of their service delivery to a subgrantee. Grantees must enter into contracts with subgrantees outlining which community action program services the subgrantees will provide. Subgrantees must meet the same reporting and fiscal requirements as grantees. Grantees are responsible for acts or omissions of their subgrantees.

3350.0190 RECORD KEEPING.

All records and books of account related to grants must be kept by the grantee for three years from the date of submission of the final invoice. Records must be retained beyond the three-year period if audit exceptions, claims, or litigation concerning the records or any accounting transactions are still unresolved or pending. After any disposition of nonexpendable property acquired with grant funds, records of the disposition must also be retained for three years.

3350.0200 MONITORING.

The department will perform monitoring activities to ensure that grantees are in compliance with parts 3350.0010 to 3350.0200, the act, and other federal and state requirements. The monitoring functions will include the following:

A. performance of a pre-award review; and

B. preparation and execution of an annual monitoring plan which includes at least one annual on-site visit to all grantees with annual dollar volume over $100,000 and to 25 percent of all grantees with annual dollar volume between $10,000 and $100,000.

Department of Natural Resources

Proposed Permanent Rules Relating to Boat and Water Safety

Notice of Intent to Amend a Rule Without a Public Hearing

NOTICE IS HEREBY GIVEN that the Minnesota Department of Natural Resources intends to adopt an amendment to the above-referenced rule without public hearing following the procedures set forth in the Administrative Procedures Act for adopting rules without a public hearing in *Minnesota Statutes*, section 14.22-14.28. Authority for the amendment of these rules is contained in *Minnesota Statutes*, § 86B.211.

All persons have 30 days to submit comments in support of or in opposition to the rule or any part or subpart of the rule. Comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed. The proposed rules may be modified if the modifications are supported by the data and views submitted to the Department and do not result in a substantial change.

Any person may make a written request for a public hearing within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the department will proceed pursuant to *Minnesota Statutes*, Section 14.13 to 14.20.

Persons who wish to submit comments or a written request for a public hearing should submit them to:

Kim A. Elverum
Minnesota Department of Natural Resources
500 Lafayette Road
St. Paul, MN 55155-4046

A STATEMENT OF NEED AND REASONABLENESS that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rules has been prepared and is available free, upon request from Kim A. Elverum.

If no hearing is required, upon adoption of the rule, the rule and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of the submission of this material to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rule, must submit a written request to Kim A. Elverum.

The Department does not anticipate that this rule amendment will have any impact on small business or agricultural land, or require the additional expenditure of funds by local public bodies.

Dated: 14 February 1991

Rodney W. Sando
Commissioner
Minnesota Department of Natural Resources

Rules as Proposed

6110.0100 APPLICATION FOR WATERCRAFT LICENSE.

Application for watercraft license shall be made to the commissioner of natural resources or ~~his~~ authorized agents on a form ~~he~~ the commissioner shall provide. The commissioner may specify the information required on the application, including that which may be required by federal regulation. A watercraft license number and certificate shall be issued by the commissioner upon receipt of the fee prescribed by law.

6110.0300 DISPLAY OF LICENSE NUMBER AND VALIDATION DECAL ON MOTORIZED WATERCRAFT.

The license number on all watercraft, except nonmotorized canoes, kayaks, sailboats, sailboards, paddle boats, and rowing shells shall be securely affixed on each side of the forward half of the watercraft for which it was issued in such a position as to provide clear and legible identification. The letters and numerals must be of a color that contrasts with the background and may be ~~reflectorized~~ decals or metal or may be painted. The letters and numerals shall read from left to right and shall not be less than three inches in height, of block type, of a stroke not less than one-half inch or more than three-fourths inch in width, not including a border. The license number shall be maintained so that it is clearly visible and legible, and the letter groups must be separated from the numeral groups by a space of not less than three inches nor more than four inches. Adjacent letters and numerals within each group must be spaced not less than one-half inch nor more than three-fourths inch apart. A state validation decal for the current license period must be affixed toward the stern of the boat and not more than four inches from the first or last letter of the license number on each side of the boat.

6110.1000 ENFORCEMENT PENNANT.

The pennant required under *Minnesota Statutes*, section ~~361.215~~ 86B.805, subdivision 2, shall be triangular in shape and of the

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

following dimensions: four inches in depth at the staff and one foot in length. The pennant shall be of a blue background and bear a three-inch replica of the Minnesota state seal.

6110.1200 NAVIGATION OF WATERCRAFT ON ~~THIS~~ WATERS OF THE STATE; SAFETY EQUIPMENT.

[For text of subpart 1, see M.R.]

Subp. 2. **Mode of operation of watercraft.** Mode of operation:

A. No person shall operate a watercraft in such a manner that its wash or wake will endanger, harass, or unnecessarily interfere with any other person or property.

B. No person shall operate a watercraft in any manner as to intentionally obstruct or interfere with the takeoff, landing, or taxiing of any aircraft.

C. No person shall operate a watercraft within 150 feet of a diver's warning flag (described in *Minnesota Statutes*, section ~~361.085~~ 86B.601).

D. No person shall operate a watercraft in the vicinity of a lock and dam on the Mississippi River from Upper St. Anthony Falls through Lock and Dam Number Eight in violation of the following:

(1) In the marked restricted area 600 feet upstream or 150 feet downstream of the dam, including auxiliary locks not in service.

(2) At greater than a slow-no wake speed in the lock or lock approach area. "Slow-no wake," means the operation of a watercraft at the slowest possible speed necessary to maintain steerage, and in no case greater than five miles per hour.

(3) Enforcement, emergency, resource management, and other government personnel or contractors are exempt from this part when performing official duties or authorized work.

E. The operator of any watercraft, when signaled to do so by a conservation officer, sheriff, or sheriff's deputy shall bring the watercraft to a stop or maneuver it in a manner which will allow the officer to come alongside.

[For text of subps 3 to 6, see M.R.]

Subp. 7. **Lighting equipment.** Lighting equipment:

A. ~~All motorized watercraft will be classified for lighting requirements in the following manner:~~

~~(1) Class A: under 16 feet in length;~~

~~(2) Class 1: 16 feet to less than 26 feet;~~

~~(3) Class 2: 26 feet to less than 40 feet;~~

~~(4) Class 3: 40 feet to 65 feet.~~

~~B.~~ All motorized watercraft must display the correct lights for their class from sunset to sunrise when underway or at anchor.

~~The system of lighting may be chosen from either the International Rules Light Requirements found in item D. or the Inland Rules Light Requirements found in items E and F.~~ Red and green lights must be visible at a distance of one mile and white lights at a distance of two miles.

~~C.~~ B. The following terms are defined for the purpose of these rules:

(1) "Aft~~:~~" means to the rear of the midlength measured from end to end of the hull over the deck excluding sheer.

(2) "All-round light" means a white light visible in an unbroken horizontal arc of 360 degrees.

(3) ~~Combined lantern:~~ "Combination light" means a single fixture showing green to starboard and red to port, visible in an unbroken horizontal arc from dead ahead to ~~two points~~ 22.5 degrees abaft the beam on ~~their~~ its respective ~~sides~~ side.

~~(3)~~ (4) "Forward~~:~~" means forward of the midlength measured from end to end of the hull over the deck excluding sheer.

~~(4) Higher than or lower than: a higher level or lower level, respectively, than another light under any normal conditions of trim under way or stopped in smooth water.~~

(5) ~~Point: one point of the compass (11 1/4 degrees) when specifying the arc of visibility of a light.~~ "Masthead light" means a white light visible in an unbroken horizontal arc of 225 degrees, placed at or near the centerline of the watercraft. The light must be visible from dead ahead to 22.5 degrees abaft the beam on both sides of the watercraft. On motorboats less than 40 feet in length, this light must be at least three feet higher than the red and green lights. On motorboats 40 feet or more in length, this light must be at least nine feet above the gunwale.

(6) "Side lights~~:~~" means separate fixtures, the one on the starboard side showing green and the one on the port side showing red, visible in an unbroken horizontal arc from dead ahead to ~~two points~~ 22.5 degrees abaft the beam on ~~their~~ its respective ~~sides~~ side.

(7) "At the stem and at the stern" means as nearly as practicable at the stem and at the stern, respectively.

(8) "Stern light" means a white light placed at the stern, visible in an unbroken horizontal arc of 135 degrees. The light must be visible from dead astern to 22.5 degrees abaft the beam on both sides of the watercraft.

(9) "Visible," when applied to lights, means visible on a dark night with clear atmosphere. The prescribed visibility means minimum visibility, and does not restrict greater distance of visibility, provided that the navigation lights are primarily intended for navigation purposes and will not be confused with other lights.

~~D. International Rules Light Requirements for motorized watercraft:~~

~~(1) Separate 10-point red (port or left) and green (starboard or right) side lights showing from dead ahead to two points abaft the beam, or a 20-point combination of red-green light showing red from ahead to two points abaft the port beam and green from ahead to two points abaft the starboard beam. The red and green lights shall be visible at a distance of at least one mile.~~

~~(2) A 20-point white light forward, showing ten points on each side, placed at least three feet above the red-green lights and visible at a distance of at least three miles. On vessels 40 feet to less than 65 feet long the 20-point white light must also be at least nine feet above the gunwale.~~

~~(3) A 12-point white light aft, showing six points on each side and visible at a distance of at least two miles. Motor-powered watercraft of Class A or 1 may carry this light off the center line.~~

~~(4) When at anchor, a 32-point white light, visible at a distance of at least one mile all around the horizon.~~

~~E. Inland Rules Light Requirements for Classes A and 1:~~

~~(1) a 20-point combination red-green bow light as described in item D. subitem (1);~~

~~(2) a 32-point bright white light aft to show all around the horizon located above the red-green combination lights and visible at a distance of at least two miles;~~

~~(3) the 32-point white light aft may be located off center line;~~

~~(4) when at anchor, a 32-point white light, visible at a distance of at least one mile all around the horizon.~~

~~F. Inland Rules Light Requirements for Classes 2 and 3:~~

~~(1) separate ten-point red and green side lights showing from dead ahead to two points abaft the beam and visible at a distance of at least one mile;~~

~~(2) a 20-point white light as near the stem as possible showing ten points on each side and visible at a distance of at least two miles;~~

~~(3) a 32-point bright white light aft to show all around the horizon, visible at a distance of at least two miles and located higher than the 20-point white light forward;~~

~~(4) when at anchor, a 32-point white light, visible at a distance of at least one mile all around the horizon.~~

~~G. All watercraft over 65 feet in length must display the lights required by item D.~~

C. The lighting system on each watercraft must be chosen from either subitem (1) or (2):

(1) Motorboats less than ~~40~~ feet in length must display the following:

(a) a combination light or separate sidelights and an all-round light at the stern when underway and not anchored; and

(b) an all-round light when anchored.

(2) Motorboats of any length must display the following:

(a) a combination light or separate sidelights, a masthead light, and a stern light when underway and not anchored; and

(b) an all-round light when anchored.

~~H.~~ D. All nonmotorized watercraft when under way or anchored, between sunset and sunrise, shall carry aboard but not necessarily fixed to any part of the watercraft a minimum of one lantern or flashlight capable of showing a white light visible all around the horizon at a distance of two miles or more. ~~Such~~ The light or lantern shall be displayed in sufficient time to avoid collision with another watercraft.

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

~~I.~~ E. When a watercraft is moored to a buoy authorized by a permit issued under part 6110.1800 it shall not be required to display the ~~32-point~~ anchor light required in items C and D ~~to H~~.

6110.1400 CAPACITY PLATE INFORMATION REQUIREMENTS FOR WATERCRAFT CONSTRUCTED ON OR AFTER AUGUST 1, 1980.

[For text of subps 1 and 2, see M.R.]

Subp. 3. **Definitions.** The terms "safe power capacity" and "safe carrying capacity" used in *Minnesota Statutes*, section ~~361.05, clause (4)~~ 86B.311, subdivision 1, shall be that capacity displayed on the manufacturer's capacity plate. If no such plate exists, the method referred to in either part 6110.1300, items B and C, or 6110.1400, subpart 2 shall be used to determine the capacity.

6110.1500 WATERWAY MARKERS.

[For text of subpart 1, see M.R.]

Subp. 2. **Channel marker buoys.** Channel marker buoys:

A. Every channel marker buoy shall have the external form of a cylinder having a circular transverse cross-section not less than nine inches in diameter. ~~All such~~ Channel markers must extend at least 36 inches above the water.

B. Where channel marker buoys are placed to indicate the location of a well defined boating channel, an all green buoy and an all red buoy shall be placed in opposition to each other to indicate the course of the channel is located between them. ~~In flowing water, the red buoy shall be situated on the right side of the channel when facing upstream.~~ The red buoy or marker shall be situated on the right side of the channel when heading towards shore, or when heading upstream. A green flashing light shall be used in conjunction with a green buoy if it is to be lighted. When reflectorization is used with a green buoy, it shall be green in color and no less than a ~~four-inch~~ three-inch wide strip shall completely surround the buoy and shall be located at the top of the buoy. Number designations shall be odd. A red flashing light shall be used in conjunction with a red buoy if it is to be lighted. When reflectorization is used with a red buoy, it shall be red in color and no less than a ~~four-inch~~ three-inch wide strip shall completely surround the buoy and shall be located at the top of the buoy. Number designations shall be even. ~~Existing black buoys may be used through December 31, 1987.~~

~~C. To indicate a watercraft should pass to south or west, where there is no well-defined channel, a buoy shall have the top surface and upper five inches colored red and the remainder colored white. If the buoy is reflectorized, it shall be done with a white strip, no less than four inches in width, that completely encircles the buoy and it shall be placed directly under the red top. A white quick-flashing light shall be used if the buoy is lighted.~~

~~D. To indicate a watercraft should pass to the north or east, where there is no well defined channel, a buoy shall have the top surface and the upper five inches colored black and the remainder colored white. If the buoy is reflectorized, it shall be done with a white strip no less than four inches in width that completely encircles the buoy and it shall be placed directly under the black top. A white quick-flashing light shall be used if the buoy is lighted.~~

[For text of subps 3 and 4, see M.R.]

Subp. 5. **Regulatory and information signs and buoys.** Regulatory and information signs and buoys:

[For text of items A to F, see M.R.]

G. No person shall operate any motor vehicle, snowmobile, all-terrain vehicle, ice boat, or any other conveyance used to transport persons over the ice on public waters of the state within 150 feet of a diver's warning flag described in *Minnesota Statutes*, section ~~361.085~~ 86B.601.

[For text of items H and I, see M.R.]

J. Any sign may be reflectorized or fluorescent provided that the entire displayed surface ~~thereof~~ is uniformly reflectorized or fluorescent.

[For text of item K, see M.R.]

~~L. Whenever an emergency situation requires that immediate warning be given of any hazardous condition on any waters of the state, any available object or apparatus may be utilized as a temporary waterway marker to give such warning until the emergency ceases to exist or until a marker complying with these regulations can be substituted therefor.~~

Subp. 6. [See repealer.]

Subp. 7. **Milfoil areas.** Buoys or signs indicating an area that is infested with Eurasian water milfoil may be marked using a solid yellow sign or buoy. If a buoy is used, it shall be no less than four inches in diameter and extend at least 30 inches above the surface of the water. The words "Milfoil" or Milfoil Area" must appear on opposing sides of the buoy in at least two-inch high black letters. If a sign is used, it shall be no more than 12 inches in width or more than 18 inches in height and extend at least 30 inches above the surface of the water at normal high water level. The words "Milfoil" or "Milfoil Area" must appear on the sign in at least two-inch high black letters.

Subp. 8. **Exceptions.** Whenever an emergency situation requires that immediate warning be given of a hazardous condition, any appropriate marker may be used until such time as the emergency ceases to exist or until a marker complying with these rules can be obtained. In addition, the commissioner or designee may exempt specific types of waterway markers or buoys from the dimensional requirements of this part where safety would not be adversely affected and may also designate buoys or markers for purposes not previously set forth in this part.

6110.1800 PLACEMENT OF TEMPORARY STRUCTURES AND BUOYS IN THE WATERS OF THE STATE.

[For text of subpart 1, see M.R.]

Subp. 2. **Permit for temporary structure or buoy.** The sheriff of any county may issue a permit for the placement of any such structure or buoy whenever, in ~~his~~ the sheriff's opinion, the structure or buoy will not constitute an undue hazard to or illegal obstruction of navigation.

Each structure or navigational buoy placed pursuant to such permit shall have the permit number painted ~~thereon~~ on it and shall have attached either a light visible in all directions, or sufficient reflectorized material so as to reflect light from all directions, which material shall retain 80 percent of its dry weather reflective signal strength when submerged in water.

Nothing in this ~~rule~~ part shall be construed to affect the provisions of *Minnesota Statutes* ~~1969~~, section ~~105.42~~ 103G.245, or the requirements for permits from the commissioner of natural resources thereunder, nor shall this ~~rule~~ part be construed to affect the construction of blinds built ~~in accordance with the provisions of~~ according to *Minnesota Statutes* ~~1969~~, ~~section 100.29, subdivision 17~~ sections 97B.805 and 97B.811.

6110.1900 ~~ACCIDENT~~ REPORTS.

~~Each county sheriff shall report to the commissioner of natural resources promptly, on forms provided by the commissioner, each accident involving a watercraft, and every drowning, in order to properly evaluate the water safety program. In the event of death, the report shall be made within 48 hours; in event of serious injury which incapacitates the victim for more than 72 hours or involves property damage of over $200 report must be made within five days. Each charge of a violation of law made against a watercraft operator and each written warning thereof shall be reported. Each watercraft for hire which does not comply with the standards of safety for such watercraft shall also be reported.~~

Subpart 1. **Accident reports.** Each county sheriff shall report to the commissioner of natural resources:

A. each watercraft accident involving either a fatality, personal injury requiring treatment beyond first aid, or property damage that totals more than $500; and

B. all drownings.

Reports shall be submitted on forms provided by the commissioner and forwarded within ten days of the accident.

Subp. 2. **Other reports.** Each county sheriff shall maintain copies of watercraft citations or written warnings and rental boat inspection reports for a minimum of three years following the year in which they were issued or completed.

6110.2100 REIMBURSEMENT OF COUNTY SHERIFFS FOR SEARCH AND RESCUE OPERATIONS.

Payments for annual appropriations for search and rescue operations shall be made pursuant to the provisions hereof in order of presentation until expended.

A search and rescue operation resulting from or related to ~~outdoor~~ water-related recreational activities will qualify for reimbursement if the incident necessitating the operation is of an unusual and nonrecurring nature. Reimbursable items of expense are those which are over and above the sheriff's regular operating budget, and include rental of private equipment and employment of personnel hired expressly for the search and rescue operation.

Payment by the state is limited to 50 percent of the reimbursable items of expense, subject to maximum state payment of $2,500 for each search and rescue operation.

A sheriff claiming reimbursement shall submit in duplicate an itemized invoice, verified by the county auditor, together with a statement showing that the operation qualified for reimbursement, to the Department of Natural Resources. All claims will be subject to audit by the state.

REPEALER. *Minnesota Rules*, parts 6110.1500, subpart 6 and 6110.1600, subpart 3, are repealed.

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

David F. Fink

Freelance Writer
3611 37th Ave. NE, Apt. 109
Minneapolis, MN 55421
(612)-788-4518 (Day and Evening)

March 29, 1991

Mr. Kim Elverum
Boat and Water Safety Coordinator
Minnesota DNR
Boat and Water Safety Section
500 Lafayette Rd.
St. Paul, MN 55155-4046

Dear Kim:

As an anti-milfoil crusader who worked with you two years ago on the radio/TV PSAs (created by Carmichael Lynch Advertising), I wholeheartedly support the DNR's proposal to use all-yellow buoys or signs to mark areas infested by Eurasian watermilfoil.

Using the color yellow is a wise choice, as the color orange may be confused with the orange markers used by sailors. Regarding the wording on each buoy, the message should read, "**Eurasian** Milfoil Area. Keep Out." It's important to make the distinction between Eurasian milfoil and the beneficial northern milfoil. If the buoys simply read "Milfoil Area," the message would unfairly restrict anglers from northern milfoil areas.

While we're on the subject of stopping Eurasian milfoil, the Legislature should expand the boat license surcharge to include boats under 17 feet in length. The added revenues would help finance local weed-control efforts, including Lake Minnetonka's costly harvesting operation.

To help prevent Eurasian milfoil from further spreading between lakes this summer, it is imperative that the DNR re-run the radio/TV PSAs and continue the billboards on high-traffic areas.

Kim, the buoy concept is a great addition to the public-education strategies already in place. Best of luck with the idea.

Yours for Healthy Minnesota Lakes,

Dave

March 27, 1991

DNR Boat and Water Safety Section
500 Lafayette Road
St. Paul, Minnesota 55155-4046

To Whom It May Concern:

This is to inform you that the homeowners at Zumbra Ridge on Lake Zumbra, Carver County, Minnesota, support the DNR's proposal to use all yellow buoys or signs to mark areas in the lakes of Minnesota infested with Eurasian Water Milfoil. We would also suggest that the yellow signs be posted at the access or boat landing areas of the lakes infested with Eurasian Water Milfoil to inform and warn people before they enter the waters of the existence of EWM on that lake.

Sincerely,

Claudia Olson, President
Zumbra Ridge Homeowners Assn.
5651 Zumbra Drive
Excelsior, MN 55331

PLAZA-NAVARRETE & CO.

ADVERTISING PHOTOGRAPHY — GRAPHIC DESIGN STUDIO

PHONE/FAX 612 472-1042
4539 ISLAND VIEW DRIVE, MOUND, MINNESOTA 55364, USA.

March 17, 1991

DNR Boat and Water Safety Section
500 Lafayette Rd.
St. Paul, MN 55155-4046

Dear Sir:

I wish to make my opinion known to you with regard to the use of yellow buoyant markers to indicate patches of water milfoil.

As a resident abutting Phelps Bay on Lake Minnetonka, we have a tremendous problem with weekend boat users, mainly from the Metro area who are not familiar with the bays, let alone the patches of water milfoil. They chop this weed with their propellers, creating a perfect chance for cuttings of seedlings to propagate. Evidently they do not know the ease in which this weed multiplies.

Standing and watching Metro lake users (non lake residents) leave the lake and trailer their boats at Spring Park, under the noses of the Water Patrol Headquarters, is enough to convince you that these ignorant boat owners do not understand this milfoil problem. Their trailers and propellers are not being checked for dangling weed residue and if you mention something to them they become highly irritated and ignore ones statement.

Demarcating the areas affected with this milfoil and asking visiting boaters to stay away would be a great contributor preventing the prolification of this weed. It is also my opinion that a DNR official, such as those used to count fisherman's limits, could be employed at strategic Lake Minnetonka locations to do the usual DNR duties as well as inspect vessels carrying this contagious spreading weed.

Therefore, in discussions with other neighbors who have prompted me to speak out, I feel that the money spent on the yellow buoy program is a worthwhile investment.

Sincerely,

Rodrigo Plaza
Resident-Phelps Bay
Lake Minnetonka

RPN/gmp

Environmental & Natural Resource Law Society
William Mitchell College of Law
875 Summit Avenue
St. Paul, Minnesota 55105

March 5, 1991

Kim A. Elverum
Boat and Water Safety Coordinator
Minnesota Department of Natural Resources
500 Lafayette Road
St. Paul, Minnesota 55155-4046

Re: Proposed Rule Amendment Relating to Boat and Water Safety

Dear Ms. Elverum:

Thank you for keeping our organization informed of the Department's activities. We support your changes, especially rule 6110.1500, Subp. 7, relating to Eurasion milfoil.

Please keep the information coming. Again, thank you.

Sincerely,

Todd J. Guerrero
Environmnetal/Natural Resources Law Society
William Mitchell College of Law

STATE OF MINNESOTA
Department of Natural Resources

Proposed Amendments to
The Boat and Water Safety
Rules § 6110.0100 - 2300

Statement of
Need and
Reasonableness

The Commissioner of Natural Resources is given the authority to promulgate rules regarding boat and water safety in Minnesota Statutes § 86B.211. The specific rules affected by this amendment are as follows:

6110.0100 - Amended to give the commissioner the authority to comply with the federal rules on boat registration, so that the state's numbering system remains approved by the Coast Guard.

6110.0300 - Deletes the term "reflectorized" when referring to registration numbers for watercraft. Reflectorized numbers are no longer readily available or extensively used. They could still be used, however.

6110.1000 - Reference to statute changed to conform to 1991 recodification

6110.1200, Subp. 2. - Reference to statute changed to conform to 1991 recodification, quotes added by Revisor's Office on "Slow-no wake."

6110.1200, Subp. 7. - This entire subpart has been reworded to more closely comply with the federal rules of the road, redefining lighting fixtures for boats and changing the term "points," which is no longer used, to degrees. This should not have an impact on either existing boats or manufacturers, since boats are constructed using federal navigation light standards that have been in effect for a number of years.

6110.1400, Subp. 3. - Reference to statute changed to conform to 1991 recodification

6110.1500, Subp. 2. - Clarifies the positioning of the red channel marker for lake situations, where there is no obvious flowing water, revises the requirement for the reflectorized strip from four inches to three to match the industry standards and eliminates the reference to the black buoy, which is no longer used. Also eliminates the cardinal (red and black-topped buoys) from the system, since they are no longer used in the state.

6110.1500, Subp. 5. - Reference to statute in "G" (diver's flag) changed to conform to 1991 recodification. Section "L" on emergency markers is deleted and incorporated into Subp. 8.

6110.1500, Subp. 7. - A new subpart has been added to cover a special buoy for Eurasian water milfoil. This is in direct response to the growing problem of this exotic aquatic plant and the need to mark the beds on lakes and rivers to keep boats from spreading the weed. This size and coloration of the marker has been discussed with a number of lakeshore owners who have requested its use.

6110.1500, Subp. 8. - This new subpart combines the reference to emergency markers formerly located in Subp. 5 with the capability to respond to special circumstances for additional types and sizes of buoys and markers. This can save dollars in certain specific cases, when a nine inch or larger diameter buoy is not required to mark an area and a smaller, less expensive one can be used without adversely impacting safety.

6110.1800, Subp. 2. - Corrections made to construction by Revisor's Office and reference to statutes changed to conform to the 1991 recodification.

6110.1900 - The entire section here is repealed and is rewritten in two subparts. Subpart 1 is rewritten to clarify the requirements for accident reports, change to property damage reportabilty requirements from $200 to $500 to match the federal rules and give the sheriff's department a more realistic 10 days to report the accident to the department. Subpart 2 modifies the reporting requirements for sheriffs, so that they only need retain the reports in their offices, rather than forwarding them to the department. Each county, however, would still be required to forward a summary of these activities in their annual report.

6110.2100 - Restricts the application and payment of search and rescue reimbursements to water-related activities. Funds for this reimbursement no longer come from the General Fund, but rather the dedicated Water Recreation Account. There have been no requests for non-water related reimbursements over the past five years.

FEB. 15, 1991
Dated

Kim A. Elverum
Boat and Water Safety Coordinator
Minnesota Dept. of Natural Resources

STATE OF MINNESOTA

DEPARTMENT OF NATURAL RESOURCES

In the Matter of the Proposed Amendment of the Boat and Water Safety Rules

FINDINGS OF FACT, CONCLUSIONS AND ORDER ADOPTING A RULE WITHOUT A PUBLIC HEARING

(1) A notice of the Commissioner's intent to adopt the above-entitled rule was published in the State Register on March 4, 1991, and was sent by United States mail to all persons on the list maintained by the agency pursuant to Minnesota Statutes, Section 14.14, subdivision 1a and 14.22 on February 27, 1991. (2) The statement of need and reasonableness was prepared before the notice of intent to adopt a rule without a public hearing was mailed to all persons on the rulemaking mailing list and published in the State Register and was available to the public.

(3) All persons were given the opportunity to submit comment on the rule for 30 days after notice of proposed rulemaking. (5) No requests for a public hearing were received by the Department.

(7) Seven letters were received within the time period allowed. Three letters simply requested a copy of the statement of need and reasonableness. One letter commented in favor of the proposed yellow milfoil buoys. Three letters commented favorably on the milfoil buoys and offered four suggestions:

- That signs be placed at access points telling users about the milfoil - this is already being done.
- That persons be stationed at the access points to check boats coming off the lakes infested with milfoil - this will probably be done on a spot check basis because of limited funding.
- That "Eurasian" be added to the lettering on the buoy or sign - the small size of the easily-made yellow buoy (4" diameter minimum) does not allow for this additional lettering. We hope to educate the public that the yellow buoys are for Eurasian water milfoil areas only.
- That the $2.00 surcharge be expanded to cover all watercraft regardless of size - The Department has drafted a bill to do this and submitted it to the 1991 Legislature.

(8) Therefore, the above-captioned rule amendment is needed and reasonable, as originally presented.

(7) No requests for notice of submission to the Attorney General were received.

(9) NOW, THEREFORE, IT IS ORDERED that the proposed amendments to the rule identified as Minnesota Rules parts 6110.0100 through 6110.2100, Boat and Water Safety, as modified, are adopted this 5th day of April, 19 91, pursuant to authority vested in me by the Minnesota Statutes § 86B.211.

Rodney W. Sando

Rodney W. Sando, Commissioner
MN Department of Natural Resources