

From: [Susan Buxton](#)
To: [David Claycomb](#); [Seth Hobbs](#); [Kathy Muir](#)
Cc: [Betty J. Mills](#)
Subject: Rulemaking Comments -- WIF and the 30% cap
Date: Wednesday, June 23, 2021 2:45:18 PM
Attachments: [image001.png](#)



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“Leaders in outdoor recreation since 1965”

Please note the comments on the rules

From: Sandra Mitchell <smitchel@alscott.com>
Sent: Wednesday, June 23, 2021 1:45 PM
To: Susan Buxton <Susan.Buxton@idpr.idaho.gov>
Subject: WIF and the 30% cap

I made one small change.

Concerns with eliminating 30% cap to one county for WIF Grants

- Depending on committee priority of projects, could concentrate grant funding to a select few projects
- Larger counties with larger programs are able to put together more professional requests, and therefore may score better
- Smaller counties have few resources, and stronger need
- WIF is intended to be of statewide benefit
- The most benefit for the most users demands broad distribution of funds throughout the state
- The current cap has worked for some 15 years without problems
- Larger counties have greater access to other grant funds and other fund distributions based on formula

Remember, even with the 30% cap, you can concentrate 90% of WIF spending to 3 counties. Not likely to happen, but could.

We urge IDPR to make the distribution of public funds as fair as possible and retain the 30% cap.

From: [Bob Stantus](#)
To: [Seth Hobbs](#)
Subject: Public notice on rule changes
Date: Tuesday, June 22, 2021 10:53:22 AM

Seth

These are my comments on the rule changes :

LWCF

300.01

The here should be some limit on administrative costs charged to the program.

300.02 what is the definition of the population of a “government agency”? Perhaps the population in reference is the population served by the government agency.

Grant Administration

100.04 Refers to advisory committee. All definitions of the advisory committees have been deleted from 010

400.06 Motorized equipment “must be maintained for public use” perhaps “maintained for use on Public projects” is what is meant.

Bob Stantus
208 351 4466

From: [Lynn Moss](#)
To: [Seth Hobbs](#)
Cc: [Kathy Muir](#)
Subject: Grant Rule Changes
Date: Tuesday, June 22, 2021 4:22:13 PM

Seth: My name is Lynn Moss. I retired about 10 years ago after serving as the Director of Parks and Recreation in Lewiston for over 30 years. I have written at least 4 LWCF, 1 Recreation Trails, 1 Waterways and 4 IDT Entrance Enhancement grants that I have also administered. I have also served on the LWCF evaluation committee for 6 years and have just completed my 3rd year on the RV evaluation committee and I think I've been reappointed for 3 more years. So I'm very familiar with the requirements for writing grants and knowing the match obligations with the various state and federal funds that come through the State and your department specifically.

So, I have a couple thoughts on your department's proposed rule changes. I hope I've got the section numbers correct;

1) 100 Application Procedure 02 Public Comment.

I would like to see a requirement that the public comment period be closed one month prior to the grant application deadline. This would require applicants to have completed their applications sufficiently prior to public comment announcements and allow adequate time to include any public comments in their final grant application. It's my experience in reviewing grant applications that some agencies don't even begin the process until the month they are due and true public involvement is almost impossible, and if genuinely offered, does not allow the agency time to implement potential changes in their application.

2) Section 176-199 01 Minimum Match

I would like to see a minimum match requirement of 10% of which 5% must be cash. Again, the application for any of these grant funds should require some forethought by the agencies requesting funds to really think about their needs and priorities more than a couple months prior to application. I very much think that way when evaluating RV grants since my personal funds for an RV sticker are being used to fund improvements throughout the state. If I've got skin in the game, so should the agencies that are requesting the funds, frequently in excess of \$500,000.

3) I think it's time for LWCF grants to be offered and awarded annually to both State Parks and other agencies throughout the state on an annual basis rather than every other year. I remember when the annual funding available was around \$300,000 or less when the existing rule was implemented. Now it's about 10 times that amount. Let's go back to the way it was and let everyone compete for the funds available annually.

Thanks for your time. You have my email. If you want to talk, call me at 208-791-5846. I won't be attending the webex.

Lynn

From: [Robert Bjelland](#)
To: [Seth Hobbs](#)
Cc: [Kathy Muir](#)
Subject: IDAPA 26, TITLE 01, CHAPTER 30 REVIEW
Date: Monday, June 21, 2021 6:54:33 PM
Attachments: [GC Marine law.docx](#)

Mr. Hobbs,

I have been involved with the review of the IDAPA Boating Rules since 06/02/2019 when I submitted my comments to DFM Rules Review in response to a notice in the newspaper.

Alex Adams forwarded my input to Anna Canning on 06/03/2019.

Our first zoom and only meeting was held on 04/13/2021 attended by IDPR reps Dave Dahms and Randy Herman; law enforcement reps from 4 counties and myself.

I have attached my last submission.

I plan to attend the online meeting.

Sincerely,

Bob

Robert Bjelland
e1too6@hotmail.com
208 660-4579

Sent from [Mail](#) for Windows 10

Some simple thoughts on a very confusing issue.

I am not an attorney nor an English professor.

I am a recreational boater. A retired Navy veteran (34 years) with 21 years of sea duty. I retired from the Kootenai County Sheriff's Office after 11 years as a Recreation Safety Deputy (Marine Patrol). I currently hold a USCG Merchant Marine Credential as a Master of Inland Waters with 50-ton and Commercial Towing Assistance endorsements. I am also an International Association of Marine Investigators Certified Marine Investigator (#149). However, I do not know the answers to some of my own questions.

Boats like vehicles come in various sizes and are designed for various uses. Idaho Code, Title 49, Motor Vehicles, provides different statutes covering commercial and noncommercial vehicles including, but not limited to, Drivers Licenses, Registration, Titles, Equipment, and Rules of the Road. Idaho Code, Title 67, Chapter 70, Idaho Safe Boating Act provides similar statutes for vessels with the exception that Drivers Licenses are not required. Idaho Code Title 67-7018 **does provide a confusing License/Inspection requirement for commercial vessels**; i.e., fishing guide boats, tug boats or cruise boats.

The following are my personal opinions and do not reflect the opinions of Idaho Department of Parks and Recreation, Kootenai County Sheriff's Office or any other agency. Any errors, omissions or other mistakes are mine.

It is my opinion that the Idaho Safe Boating Act and the Idaho Administrative Procedures Act (IDAPA) 26, Title 01, Chapter 30 are not in compliance with Federal law and some could be changed to benefit boaters.

General questions/comments:

1. Why doesn't Idaho require documented vessels to be registered using annual validation stickers? (not numbered or titled) The owners of these large expensive vessels often can take advantage of a documented vessel "preferred mortgage" and Federal renewal fees are less expensive than Idaho registration. They use boat launches and Law Enforcement services that are funded in part by registration fees.

2. Why was IDAPA 26, Title 01 Chapter 34, Invasive Species Sticker Rules, created instead of not added to Chapter 30, Idaho Safe Boating Rules? IDPR is the legal authority for both chapters but uses different confusing definitions i.e.: "Motorboat" and "Motorized Vessel".

3. **The 800-pound gorilla in the room-** Do the USCG Inland Rules of the Road, defined in I.C. 67-7003(21) and as adopted by I.C. 67-7025, **really** apply to all vessels on Idaho waters? IDAPA doesn't address lights for vessels over 65 feet in length, shapes nor sound signals for any vessel.

If the Rules of the Road are not adopted, local Law Enforcement does not have concurrent jurisdiction on USCG Navigable waters. In 2019, navigation rules (NAVRULES) violations were cited as the primary contributing factor in 1,709 accidents, 1,187 injuries, and 106 deaths nationwide. These NAVRULES violations of excessive speed, improper lookout, inadequate onboard navigation lights, and operator inattention were the primary contributing factors in many accidents and fatalities. Current Idaho Police Officers Standards and Training Marine Law Enforcement Academy curriculum allots only 1.5 hours for Navigation Rules.

4. Idaho's safe boating safety course is only mandatory for Personal Watercraft rental, Operating Under the Influence convictions and **conviction of any second or subsequent violation of any of the provisions of law**. During my 11 years as a Kootenai County Marine Deputy, I saw several OUIs pled down to Negligent Operation and I do not recall an instance when a judge ordered attendance for a second or subsequent violation. The only states with lessor requirements are Alaska, Arizona, South Dakota, and Wyoming with NONE. USCG data from 2016-2019 reveal that Alaska and Idaho were the only states with fatality rankings 1-12 of 57 in each year. **The national fatality average (number of fatalities per 100,000 registered vessels) for 2016-2019 was 5.47 while Idaho's was 12.7. In 2019 Idaho had 0.7% of the total U.S. registered vessels but 1.3% of total deaths. It is time to adopt the NASBLA model act for mandatory boating safety education (phased in by age).**

5. A person who is reckless with one kind of vehicle may be reckless with another. Operating a vessel under the influence and driving a vehicle under the influence are treated as similar violations, both affecting driving history, in seventeen states. This administrative action may deter operating a vessel under the influence and also reduce the chances of driving under the influence. The National Recreational Boating Safety (RBS) Program 2017-2021 Strategic Plan, Course of Action #6 "Improve enforcement of BUI and BUI-D laws", Milestone #16 is to Align national BUI and BUI-D policy with DUI" by 2021.

Review of pending Senate Bill No. 397 by Resources and Conservation Committee.

STATEMENT OF PURPOSE

RS27541 / H0397

“This legislation amends the term personal watercraft to motorized watercraft and clarifies that negligent operation now includes violating a no wake zone. It allows counties to implement a 200 foot no wake zone from the shoreline. This legislation also protects private property owners and enhances penalties for offenders regarding violations on waters of the state of Idaho”.

This Statement of Purpose is flawed in several areas. The term personal watercraft is recognized by the USCG. CFRs 33 and 46 do not define the term motorized watercraft. A recognized term for motorized watercraft would be power-driven vessels. The term personal watercraft was amended to motorized watercraft but is still used in the Bill. Adding Idaho Code 67-7031, MARKING OF WATER AREAS – PROCEDURES – LOCAL RULES to I.C. 67-7017 does not clarify Negligent Operation. IDAPA 26.01.30500 WATERWAY MARKING SYSTEM describes how waterways are marked but does not discuss violations for entering a marked area. By making a violation of I.C. 67-7031 a Misdemeanor, the placement of an unauthorized marker would be a criminal act. Prior to amending I.C. 67-7031, counties were able to adopt local ordinances. This legislation protects a very small subset of all WATERFRONT property owners, not just PRIVATE owners, and allows first-time offenders of previous Misdemeanors to be cited for infractions with only a civil penalty.

FISCAL NOTE

“There is no fiscal impact to the State General Fund because this legislation deals with the process that counties use for adopting or amending local ordinances relating to bodies of water within their jurisdictions. Penalties that are assessed for violations of these county ordinances will not have an impact on the State General Fund”.

This legislation does not change the process that counties use for adopting or amending local ordinances. It does amend the penalties for **state statutes I.C. 67-7017 and 67-7031** which will have an impact on the State General Fund.

Comments on bill language.

If the Legislature desires to protect waterfront property owners, the exemption of no wake violations in I.C. 67-7077 (b) and (c) should be repealed. The act of pulling a water skier from a dock and/or dropping a water skier at or near a dock creates damaging wakes. The clearest way to make a no wake zone violation a Misdemeanor would be to [add the following to IDAPA 26.01.30525 NEGLIGENT OPERATION – \(04\) Operating at a speed greater than no wake or five \(5\) mile per hour in a no wake zone.](#)

Recommend using the USCG recognized term power-driven vessels in place of motorized watercraft in I.C. 67-7031. The changes in I.C. 67-7031 (4)(b) would prohibit counties from designating an area exclusively for personal watercraft operation. The changes in 67-7031(4)(d) would limit no wake zones from extending more than 200 feet from a shoreline. Marina moorage, docks and breakwaters often extend beyond 200 feet from a shoreline and should be within a no wake zone to protect property. Recommend no changes to 67-7031 (4) (a) – (d).

Adding no wake violations to 67-7017 and the first offenses of 67-7016 - GROSSLY NEGLIGENT OPERATION, 67-7017 - NEGLIGENT OPERAION, 67-7025 – INTERFERENCE WITH NAVIGATION, 67-7026 – RESTRICTED AREA, 67-7027 – COLLISIONS, ACCIDENTS, AND CASUALTIES REPORTING to infractions is a travesty of justice. Consider the following sequence of events: A first-time PWC operator travels through a marked swim area; jumps the wake of a passing boat within 100 feet; does not take appropriate action in a crossing situation causing the stand on vessel to take action to avoid a collision; strikes a moored vessel causing \$2,000 in damage while docking his PWC and fails to report the accident. Using the new language in 67-7033 the operator could be guilty of 5 different infractions with a total civil fine of \$360.00. HOW DOES THAT ENHANCE PENALTIES?

Making the second violation of a no wake zone could over whelm the courts. Offenders would take their chances in a trial to avoid Misdemeanor charges by claiming “How did the officer determine that I was within the no wake zone? There is no white line on the water marking the distance from the shoreline.” The officer’s statement of “based on my training and experience – my patrol boat is 20 foot long and I estimated the distance was 8 vessel lengths from the shoreline”. Not sure how many judges/juries would find the offender guilty. I.C. 67-7031 is not listed as a Misdemeanor in I.C. 67-7033 – Penalties.

[Recommend.](#) Do not pass this bill. IDPR should recommend deletion of 67-7077 (b) and (c) exceptions to the 100 foot no wake rule when pulling a skier from a dock/dropping a skier at or near a dock. The BLA should “encourage” emphasis patrols and enforcement of existing no wake statutes and local county ordinances. Need to get prosecuting attorneys and judges to enforce the provisions of 67-7033(2) and refuse the boating privileges of repeat offenders of the no wake rules.

Possible changes to align definitions with Code of Federal Regulations.

Idaho Statute Title 67 State Government and State Affairs Chapter 70 – Safe Boating Act

I.C. 67-7003 Definitions:

Added 1986, ch 207, ss 2, p 515

(12) “Operate” means to navigate or otherwise use a vessel on the water of this state.

Discussion. The definition used in 33 CFR 174.3 is “Operate means use, navigate, or employ.”

Recommend. Change to read: “Operate means use, navigate, or employ a vessel on the water of this state”.

(13) “Operator” means any person who controls the direction or propulsion of any vessel on the water of this state.

Discussion. The definition used in 33 CFR 174.3 is “Operator means the person who is in control or in charge of a vessel while it is in operation”.

Recommend. Change to read: “Operator means the person who is in control or in charge of a vessel while it is in operation on the water of this state”.

(21) “Rules of the road” mean the statutory and regulatory rules governing the navigation of vessels as published by the United States Coast Guard in Navigational Rules International – Inland.

Discussion. There are two sets of Navigations Rules; International Regulations for Prevention of Collisions at Sea, 1972 (72 COLREGS) adopted by Congress in 1977 as the International Navigation Rules Act of 1977 and Inland Rules (33 CFR Parts 83, 84, 85, 86, 87, 88, 89, and 90). International Rules apply to all vessels seaward of navigational demarcation lines. Inland Rules apply to all vessels upon the navigable waters of the United States shoreward of the navigational demarcation lines. The correct source for “rules of the road” should be Inland Navigation Rules.

Recommend. Change to read: “Rules of the Road mean the statutory and regulatory rules governing the navigation of vessels as published by the United States Coast Guard in “Inland Navigation Rules” and adopted by I.C. 67-7025”.

The Idaho Administrative Procedures Act
IDAPA Boating Rules
IDAPA 26, Title 01, Chapter 30

Page 1. Who does this rule apply to?

“These rules apply to all boat owners recreating in Idaho waters.”

Discussion. A boat owner can recreate in Idaho waters and not be in a boat. Do they apply to non-boat owners? Many boat operators are not the boat owner.

Recommend. Change to read: “These rules apply to the operators of all vessels operated on Idaho waters.”

.010. Definitions

03. Motorboat. Any vessel propelled by machinery, which is powered by an energy source other than human effort, whether or not such machinery is the principal source of propulsion. (7-1-93)

Discussion. The definition, found in 46 CFR 90.10-23, limits motorboats to 65 feet or less. The term motorboat is used in Section 100.02 “Lights and Shapes, Motorized Vessels”. Lights and Shapes are found in 33 CFR 83 and 84 where the term “Motorboat” is not found. The term “power-driven vessel”, 33 CFR 83.03(b), means any vessel propelled by machinery.

Recommend. Delete Motorboat. Replace with:

Power-driven Vessel. Any vessel propelled by machinery.

04. Sailboat. Any vessel equipped with mast(s) and sail(s), dependent upon the wind to propel the vessel in the normal course of operation of the vessel. (1-1-94)

Discussion. Kayaks are being outfitted by the manufacturer with easily removable masts and sails. Some owners, while under sail, claim they “normally” paddle. If a sail is used it should be classified as a sailboat. 33 CFR 83.03(c) uses the term “sailing vessel” defined as any vessel under sail provided that propelling machinery, if fitted, is not being used.

Recommend. Adopt USCG definition from 33 CFR 83.03. Change to read:

Sailing vessel. Any vessel under sail provided that propelling machinery, if fitted, is not being used.

08. Whistle or Horn. Any sound producing appliance capable of producing the prescribed blasts and which complies with the specifications of 33 U.S.C. Section 2001 et seq. and 33 CFR Section 86.01 et seq. (1-1-94)

Discussion. 33 U.S.C. Section 2001 was repealed 09 August 2004. Sound producing appliances are not required on vessels less than 39.4 feet in length. 33 CFR 86 is Annex III – Technical Details of Sound Signal Appliances. The word “horn” is not used in 33 CFR 86. The carriage requirement is for a whistle, bell, gong or some other means of making an efficient sound signal depending on the length of the vessel. See 150 Sound Producing Devices.

Recommend. Delete existing and replace with:

“08. Sound producing Device. Whistle, bell, gong complying with the specifications in 33 CFR Part 86 or some other means of making an efficient sound signal depending upon the length of a vessel.”

Possible changes to Idaho Safe Boating Act (Statutes) and Idaho Administrative Procedures Act (Rules) to align with Federal Statutes

Would it be possible to arrange entries in the Safe Boating Act and IDAPA in the same sequence and format?

67-7004. Hull Identification Number

- (1) All vessels, except seaplanes, shall have two (2) identical hull identification numbers permanently displayed and affixed in accordance with federal regulations....

am 1996, ch 54, ss 2, p 160

Discussion. Confusing on several points. HINs are only required on recreational vessels. Prior to November 1, 1972 there were no requirements for a HIN to be assigned to recreational vessels. From 1 November, 1972 until 31 July, 1984 only one (1) HIN was required. August 1, 1984 a second confidential, hidden, HIN was mandatory. In accordance with federal regulations vessels may have none, one or two HINs (with one hidden) depending on date of manufacture.

Recommend. Correct (1) to read: "All recreational vessels manufactured on or after 1 November 1972, except seaplanes, shall have Hull Identification Numbers displayed and affixed in accordance with federal regulations."

- (2), (3), (4) No changes required.

IDAPA 26.01.30.425. Hull Identification Numbers - Required.

- 01. Obtaining a Hull Identification Number.** A person who builds... (1-1-94)

Discussion. Effective 1-1-2017, 33 CFR Part 174.16 (1)(b) required the issuing authority (IDPR) to determine whether a vessel imported or manufactured on or after 1 November 1972 has a primary HIN meeting the requirements of 33 CFR Part 181 Subpart C. IDAPA 26.01.30.425 only addresses home built vessels. IDPR should follow the guidance provided in USCG letter CG-BSX-23 16750 of October 9, 2020.

Recommend. Revise as follows:

01. Obtaining a Hull Identification Number:

a. A person who builds or imports a vessel for his own use and not for the purposes of sale must request a hull identification number from the Director and affix the number as instructed. (Section 67-7004(2), Idaho Code).

b. The owner of a vessel that does not have a hull identification number meeting the requirements of 33 CFR Part 181 Subpart C shall request assistance from the director. (Section 67-7004(4), Idaho Code.)

Delete existing 02 Displaying the....

Renumber remaining entries.

IDAPA 26.01.30.450. Hull Identification Numbers - Form.

(1-1-94)

Discussion. As written, this section applies only to HINs issued by the Director. There are four (4) USCG authorized HIN formats.

Recommend. Change to read:

IDAPA 26.01.30.450. Hull Identification Numbers - Format

01. Straight Year Format for recreational vessels manufactured between 1 November 1972 and 31 July 1984.

(a). **Manufacturer Identification Code (MIC).** The first three (3) characters (MIC) are assigned by the USCG to manufacturers.

(b). **Production or Serial Number.** Characters 4 – 8 are assigned by the manufacturer in letters of the English alphabet, or Arabic numerals, or both, except the letters “I”. “O” and “Q”.

(c). **Month of certification/production.** Characters 9 - 10 are the numeric month of certification/production.

(d). **Year of Certification/production.** Characters 11 -12 are the last 2 digits of the year of certification/production.

02. Model Year Format for recreational vessels manufactured between 1 November 1972 and 31 July 1984.

(a). **Manufacturer Identification Code (MIC).** The first three (3) characters (MIC) are assigned by the USCG to manufacturers.

(b). **Production or Serial Number.** Characters 4 – 8 are assigned by the manufacturer in letters of the English alphabet, or Arabic numerals, or both, except the letters “I”. “O” and “Q”.

(c). **Model year format indicator.** Character 9 shall be “M”.

(d). **Model Year.** Characters 10 – 11 are the last 2 digits of the model year.

(e). **Month of production.** Character 12 must be indicated using letters A – L for the months of August – July. The first month of the Model Year, August must be designated by the letter A, the second September by the letter B and so on until the last month of the year, July.

03. Current Format. The Current Format replaced the Straight Year and the Model Year formats. Although optional as of 1 January 1984, both the Current Format and the secondary HIN were required as of 1 August 1984.

(a). **Manufacturer Identification Code (MIC).** The first three (3) characters (MIC) are assigned by the USCG to manufacturers.

(b). **Production or Serial Number.** Characters 4 – 8 are assigned by the manufacturer in letters of the English alphabet, or Arabic numerals, or both, except the letters “I”. “O” and “Q”.

(c). **Month/Year of certification/production.** Character 9 must be indicated using letters A – L for the months January through December. The first months of the year, January must be designated by the letter A, the second February by the letter B and so on until the last month of the year December. Character 10 is the last digit of the production year.

(d). **Model Year.** Characters 11 -12 are the last 2 digits of the model year.

.04. State issued Hull Identification Numbers issued in accordance with Sections 67-7004(2) and 67-7004(4):

NOTE: THE BELOW IS BASED ON THE NASBLA HIN VALIDATION & VERIFICATION GUIDELINES OF SEP 24, 2020 AND CG-BSX-23 LETTER 16750 OF OCT 9, 2020.

(a). **Manufacturer Identification Code (MIC).** The first three (3) characters (MIC) shall be IDZ.

(b). **Hull Serial Number.** Characters 4 – 8 are assigned by the Director in letters of the English alphabet, or Arabic numerals, or both, except the letters “I”. “O” and “Q”.

(c). **Assignment Date.** “Character nine (9) must be indicated using letters A – L for the months January through December. The first months of the year, January must be designated by the letter A, the second February by the letter B and so on until the last month of the year December. Characters ten (10), eleven (11) and twelve (12) shall indicate the year of assignment using Arabic numerals for the last three (3) numbers of the year such as “019” for 2019 and “020” for 2020.”

NOTE FOR REGISTRATION AND TITLING MANAGER – MODEL YEAR “1111” WILL BE USED ON CERTIFICATE OF NUMBER FORMS.

Delete 04.

475. Hull Identification – Display.

Each hull identification number issued according to Section 67-7004(2), Idaho Code... (1-1-94)

Discussion. Idaho Code 67-7004(2) only applies to home-built vessels.

Recommend. Correct to read:

475. HULL IDENTIFICATION NUMBERS – DISPLAY.

Hull identification numbers shall be displayed as follows:

01. No changes

02. Duplicate number. Change to read:

On vessels constructed after 31 July 1984 and numbers assigned in accordance with Sections 67-7004(2) and 67-7004(4) the duplicate number shall be affixed in an unexposed location on the interior of the vessel or beneath a fitting or item of hardware.

03. No changes

04. No changes

Licensing and Fees:

I.C. 67-7008 Certificate of Number ... (2) The owner.... “if the vessel is operated on the waters of this state in excess of sixty (60) days, make application for an Idaho certificate of number”.

am 2014, ch 338, ss 2, p 838

I.C. 67-7009 Exemption from numbering provisions. (1) “Already covered by a number in full force and effect which has been issued to it pursuant to federal law or federally approved numbering system of another state, provided that such vessel shall not have been within this state for a period in excess of sixty (60) consecutive days”.

am 1996, ch 54, ss 3, p 160

Discussion. Using 67-7008(2) it would be legal for an out of state vessel to remain on the water for more than 60 days if it is not operated but it is illegal under 67-7009(1). Language should be the same in both I.C. 67-7008(2) and I.C. 67-7009(1). But the real question is why have exemptions in 67-7008 (IDAPA Section 350) and in 67-7009 (no IDAPA)

Recommend. Change the language in 7008(2) to match 7009(1).

IDAPA 26.01.300. Validation Stickers

.02. Removal of Stickers. Validation stickers issued according to Sections 67-7008 or 67-7011, Idaho Code, which have become invalid, shall be removed from the vessel. (1-1-94)

Discussion. Idaho Code 67-7011 was repealed 01-01-1995.

Recommend. Delete “or 67-7011”.

IDAPA 26.01.30325 Application and Certificate of Number – Contents

.01. Requirements. Except as allowed ... contain the following information: (4-11-15)

Discussion. 33 CFR 174.17 (Contents of application for certificate of number) and 33 CFR 174.19 (Contents of a certificate of number) were updated 28 March 2012 changing the authorized terms for several entries.

Recommend. Update as required by 33 CFR 174.17 and .19.

I.C. 67-7008A Additional Fees. (2) Upon payment...displayed on the vessel in a manner as described by the rules of the department. am 2017,ch 193, ss1, p 459

Discussion. Instructions for the display of vessel numbers and validation stickers are provided in I.C. 67-7008. Instructions for the display of the invasive species sticker is found in IDAPA 26, Title 01, Chapter 34, Section 076. See separate page for discussion of IDAPA 26.01.34.

Recommend. Add display instruction contained in IDAPA 26.01.34.076 to I.C. 67-7008A.

Equipment and Operation Regulations:

I.C. 67-7015. Safety Equipment added 1986, ch 207, ss 2, p 515

IDAPA 26.01.30.050. PERSONAL FLOTATION DEVICES (PFD'S)

.01. Personal Flotation Devices Required. Except seaplanes, sailboards, and as provided in Subsections 050.03 and 050.04 of this chapter, no person shall operate or permit to be operated any vessel on the waters of this state without carrying on board personal flotation devices (Type I life preservers, Type II buoyant vests, Type III special purpose marine buoyant devices, Type IV buoyant cushions or life ring buoys, or Type V restricted use devices) as follows: (7-1-93)

Discussion. As promulgated in the Federal Register/Vol. 79, No. 183/ Monday, September 22, 2014, the Coast Guard removed references to type codes in its regulations on the carriage and labeling of Coast Guard approved personal flotation devices (PFDs).

Recommend. Rewrite .050. as follows:

01 Definitions. (as used in this chapter)

a. Personal flotation Device or PFD means a device that is approved under 46 CFR part 160.

b. Throwable PFD means a PFD that is intended to be thrown to a person in the water. A PFD marked as Type IV or Type V with Type IV performance is considered a throwable PFD. Unless specifically marked otherwise, a wearable PFD is not a throwable PFD.

c. Wearable PFD means a PFD that is intended to be worn or otherwise attached to the body. A PFD marked as Type I, Type II, Type III, or Type V with Type (I, II or III) performance is considered a wearable PFD.

02. Personal Flotation Devices Required. No person may use a recreational vessel unless:

- a. At least one wearable PFD is on board for each person and,
- b. Each PFD is used in accordance with any requirements on the approval label and,
- c. Each PFD is used in accordance with any requirements in its owner's manual, if the approval label makes reference to such a manual.
- d. No person may use a recreational vessel 16 feet or more in length unless one throwable PFD is onboard in addition to the total number of wearable PFDs required.
- e. Commercial vessels less than forty (40) feet in length not carrying passengers for hire shall have at least one wearable PFD of a suitable size for each person on board.
- f. Commercial vessels carrying passengers for hire and commercial vessels forty (40) feet in length or longer not carrying passengers for hire shall have at least one wearable PFD meeting the requirements of 46 CFR 160.001 of a suitable size for each person on board.
- g. Commercial vessels twenty-six (26) feet in length or longer shall have at least one throwable PFD in addition to the total number of wearable PFDs required.
- h. Children fourteen (14) years of age and younger, onboard vessels nineteen (19) feet or less must wear an approved PFD when the vessel is underway.

03. Location and Condition. "All personal flotation devices required by Section 050 of this chapter shall be readily accessible to persons on board and be of good and serviceable condition. When aboard a personal watercraft (Jet Ski, Wave Runner, etc.) or being towed by a boat (water ski, wake board, knee board, tube, etc.), an approved flotation device must be worn to be considered readily accessible. (3-30-01)

Discussion. 33 CFR 175.19(b) requires throwable devices to be "immediately available". Wake surfers sometimes are not towed by a boat but are being propelled by the wake created by the boat. USCG recommends PFD's for personal watercraft, skiers, tubers, etc. be approved for high-speed sports.

Recommend. Rewrite as follows:

03. Location and Condition. "Wearable PFDs shall be readily accessible and all throwable PFDs must be immediately available. All PFDs shall be of good and serviceable condition. When aboard a personal watercraft (Jet Ski, Wave Runner, etc.) or being towed/propelled by a boat (water ski, wake/surf/knee board, tube, etc.), a wearable PFD approved for high-speed sports must be properly worn to be considered readily accessible".

04. Exemptions.

a. Canoes and kayaks 16 feet or more in length are exempted from the requirements for carriage of the throwable PFD.

b. Racing shells, rowing sculls, racing canoes, and racing kayaks are exempted from the requirements for carriage of any PFD provided they are manually propelled, recognized by a national or international racing association and designed solely for competitive racing.

c. Sailboards are exempted from the requirements for carriage of any PFD.

d. Float tubes are exempted from the requirements for carriage of any PFD while being operated on lakes and reservoirs of less than two hundred (200) surface acres in size at natural or ordinary high water.

IDAPA 26.01.30.100. Lights and Shapes. Is not in compliance with Rules 20, 21, 23, 24, 25, 27, 30 and 33 CFR 84.02, and 84.06. **A complete rewrite is required.**

02. Motorized Vessels. A motorboat less than sixty-five and six-tenths (65.6) feet in length shall exhibit navigation lights as follows: (1-1-93)

Discussion. Change “motorboat” to “power-driven vessel”. Lighting requirements are based on vessel lengths of (1) less than 39.4”, (2) 39.4’ to less than 65.6’, (3) 65.6’ to less than 164’, (4) 164’ and greater.

Recommend. Add lights and shapes requirements for all power-driven vessels.

02. a. b. and c.

Discussion. Uses “points” in addition to degrees to describe the arc of a light. A “point” is no longer used in the Rules.

Recommend. Delete the term “points”.

02. a. “A white light placed over the fore and aft centerline of the vessel showing an unbroken light over an arc of the horizon of two hundred twenty-five (225) degrees (twenty (20) points) and so fixed as to show the light from right ahead to twenty-two and five-tenths (22.5) degrees (two (2) points) abaft (toward the stern from) the beam on either side of the vessel.” (1-1-94)

Discussion. Does not address the vertical positioning of the masthead light or all-round light for a vessel of less than 12 meters (39.4 feet) of at least 1 meter (3.3 feet) higher than the sidelights (Annex 1 33 CFR part 84), the vertical positioning of the masthead light for a vessel of 12 meters (39.4 feet) but less than 20 meters (65.6 feet) of not less than 2.5 meters (8.2 feet) above the gunwale and for a second masthead light for a vessel more than 50 meters (164 feet). A vessel of less than 50 meters (164 feet) shall not be obliged to exhibit such light, but may do so. There are some exceptions for vessels whose keel was laid prior to 24 Dec 1980 (Rule 38).

Recommend. Add the required vertical separation for masthead lights.

02. c. “... These sidelights may be combined in one (1) lantern carried on the fore and aft centerline of the vessel”. (1-1-94)

Discussion. Does not address the lantern position on a vessel of less than 12 meters (39.4 feet) shall be placed as nearly as practicable to the fore and aft centerline of the vessel ...

Recommend. Add the position on a vessel less than 12 meters (39.4 feet).

02. d. “...may exhibit a white light aft visible all around the horizon...” (7-1-93)

Discussion. Does not address the vertical separation of at least 1 meter higher than the sidelights. The correct name is “all-round”. There are some exemptions for vessels whose keel was laid prior to 24 December 1980 (Rule 38).

Recommend. Correct the name to “all-round” and add the vertical separation requirement.

.03. Non-Motorized Vessels. A sailboat, under sail alone, and a vessel under oars or paddles, shall exhibit navigation lights as follows: (1-1-94)

03. a. and b. (1-1-94) (7-1-93)

Discussion. Uses “points” in addition to degrees to describe the arc of a light. A “point” is no longer used in the Rules.

Recommend. Delete the term “points”.

03. a. “These sidelights may be combined in one (1) lantern carried on the fore and aft centerline of the vessel”. (1-1-94)

Discussion. Does not address the lantern position on a vessel of less than 12 meters (39.4 feet) shall be placed as nearly as practicable to the fore and aft centerline of the vessel.

Recommend. Add the position on a vessel less than 12 meters (39.4 feet).

03. c. A sailboat of less than twenty-three (23) feet in length or a vessel under oars..., but if it does not, have ready at hand an electric torch or lighted lantern... (7-1-93)

Discussion. Federal Register Vol 79, No. 127 2 July 2014 published latest changes to Rule 25 to allow the use of an all-round white light in addition to an electric torch or lighted lantern. Rule 25(d)(i) and (ii): “...shall exhibit an all-round white light or have ready at hand an electric torch or lighted lantern...”

Recommend. Insert “shall exhibit an all-round light white or” after “if it does not,”.

New 03 Paragraphs:

Discussion. Rule 25 (b) allows “In a sailing vessel of less than 20 meters in length the lights prescribed in paragraph (a) of this Rule (sidelights and sternlight) may be combined in one lantern carried at or near the top of the mast where it can best be seen.”

Discussion. Rule 25 (c) allows “In a sailing vessel of less than 20 meters in length the lights prescribed in paragraph (a) of this Rule exhibit at or near the top of the mast where it can best be seen, two all-round lights in a vertical line, the upper being red and the lower green, but these lights shall not be exhibited in conjunction with the combined lantern permitted by paragraph (b) of this Rule.”

Recommend. Add language from Rule (b) and (c) to Section 03.

04. Anchorage. “All vessels shall display a white light visible all around the horizon when anchored on the waters of this state, unless anchored in a designated mooring area.” (1-1-94)

Discussion. Lights shall be used from sunset to sunrise and in restricted visibility. The Section does not address the required use of a day shape (black ball) when anchored from sunrise to sunset (Rule 30). Annex I (section 84.06(c) allows the use of smaller dimensions but commensurate with the size of the vessel for vessels of less than 20 meters. Rule 30 (c) exempts vessels of less than 7 meters (twenty-three feet) in length, when at anchor, not in or near a narrow channel fairway, anchorage, or where other vessels normally navigate from exhibiting the lights and shape prescribed in paragraphs (a) and (b) of this rule. Rule 30(g) exempts vessels of less than 20 meters, when at anchor in a special area designated by the Coast Guard (see 33 CFR 110 Subpart A), from displaying the required lights and shapes. The Ports and Waterway Act of 1972 applies to U.S. Navigable waters. Navigable waters within Idaho include: Priest Lake, Salmon River, Snake River, Bear Lake, Kootenai River, Lake Coeur d’Alene, Pend Oreille Lake, and Clearwater River. There are no Coast Guard special areas designated in Idaho.

Recommend. Legal review of 33 CFR 110 requirement. If no exemption is found, delete “unless anchored in a designated area”. Also change to read “All vessels, more than twenty-three feet in length, shall display a black ball when anchored from sunrise to sunset or a white light visible all-round the horizon when anchored from sunset to sunrise and in restricted visibility.”

07. Visibility. Every white light prescribed by Section 100 of this chapter shall be of such character as to be visible at a distance of at least two (2) miles. Every other colored light shall be fitted with screens of sufficient height so set as to prevent these lights from being seen across the bow and shall be of such character as to be visible at a distance of at least one (1) mile. The word “visible” in section 100 of this chapter shall mean visible on a dark night with clear atmosphere. (7-1-93)

Discussion. Rule 22 requires the following visibility:

A vessel of 12 meters or more in length but less than 50 meters in length:

A masthead light 5 miles; except that where the length of the vessel is less than less than 20 meters (65.6 feet) 3 miles; sidelights 2 miles; a sternlight 2 miles; a towing light 2 miles.

In a vessel less than 12 meters (39.4 feet): a masthead light 2 miles; sidelight 1 mile; a sternlight 2 miles; a towing light 2 miles.

Recommend. Rewrite using Rule 22 requirements.

08. Alternative Lights and Shapes. In lieu of the lights and shapes required in section 100 of this chapter, a vessel may exhibit those lights and shapes provided for by 33 U.S.C. Section 1601 et seq., or 33 U.S.C Section 2001 et seq. and applicable regulations, and as published by the U.S. Coast Guard in the Navigational Rules International – Inland. (1-1-94)

Discussion. Refers to 33 U.S.C. Section 1601 which are the International Rules and are not applicable. Also, 33 U.S. C. Sections 2001 - 2038 was repealed 9 August 2004. The correct reference is 33 CFR 89, Certificate of Alternative Compliance.

Recommend. Replace “33 U.S. C. Section 1601 et seq., or 33 U. S. C. Section 2001 et seq.” with “33 CFR Part 89.”

New subsections:

Discussion. Does not address lights and shapes prescribed for towing and pushing (Rule 24). Rule 24 requires different lighting displays and day shapes for the tow/push vessel and towed/pushed vessel/object. Commercial tow operators are required to have a USCG Masters License with towing endorsement and know the Rule. Rule 24 (j) also provides an exemption “Where from any sufficient cause it is impracticable for **a vessel not normally engaged in towing operations** to display the lights prescribed by paragraph (a), (c) or (i) of this Rule, such vessel shall not be required to exhibit those lights **when engaged in towing another vessel in distress or otherwise in need of assistance.**” This allows recreational boaters to render assistance without the required lighting.

Recommend. Add the requirements listed in Rule 24.

Discussion. Does not address lights and shapes required for vessels not under command or restricted in their ability to maneuver (Rule 27). Vessels not under command or restricted in their ability to maneuver (RAM) present unique challenges. Their terms are defined in Rule 3 and the responsibilities between vessels are listed in Rule 18. In order to be readily identified, Rule 27 lists specific lights and shapes to be displayed. It should be noted that most towing/pushing operations are not RAM. A vessel of less than 12 meters in length, except when engaged in diving operations, is not required to exhibit the lights or shapes required by this Rule.

Recommend. Review the definitions of “vessel not under command” Rule 3(f) and “vessel restricted in her ability to maneuver” Rule 3(g) to Section 010 and consider adding the requirements listed in Rule 27 to Section 100.

150. Sound Producing Devices.

01. Vessels Thirty-Nine and four-Tenths Feet and Over. A vessel of thirty-nine and four-tenths (39.4) feet or more in length shall be provided with a whistle or horn capable of making the prescribed signals provided for by 33 U.S.C. Section 2001 et seq., and a bell. The whistle or horn shall be audible for at least $\frac{1}{2}$ nautical mile, and the bell when struck, shall produce a clear bell-like tone of full sound characteristic. (1-1-94)

02. Vessels under Thirty-Nine and Four-Tenths Feet. A vessel of less than thirty-nine and four-tenths (39.4) feet in length shall be provided with a whistle or horn capable of making the prescribed signals provided for by 33 U.S.C. Section 2001 et seq. The whistle or horn shall be audible for at least one-half ($\frac{1}{2}$) nautical mile. (1-1-94)

Discussion. 33 U.S.C. Section 2001 was repealed 9 August 2004. Federal Register Vol 79, No. 127 2 July 2014 published latest changes to Rule 33. Rule 33(a) "A vessel of 12 meters or more in length shall be provided with a whistle, of vessel of 20 meters or more in length shall be provided with a bell in addition to a whistle, and a vessel of 100 meters or more in length shall, in addition, be provided with a gong ...". "... The whistle, bell and gong shall comply with the specifications in Annex III to these Rules (33 CFR part 86)." There is no IDAPA requirement or explanation for the use of sound producing devices in accordance with Rules 34, 35 and 36.

Rule 33(b) A vessel of less than 12 meters in length shall not be obliged to carry the sound signaling appliances prescribed in paragraph (a) of this Rule but if she does not, she shall be provided with some other means of making an efficient sound signal.

33 CFR part 86.01 Whistles

- (a) Frequencies and range of audibility. The fundamental frequency of the signal shall lie within the range 70-700Hz. The range of audibility of the signal from a whistle shall be determined by those frequencies, which may include the fundamental and/or one or more higher frequencies, which lie within the range 180-700Hz (+/- 1%) for a vessel of 20 meters or more in length, or 180-2100 Hz (+/- 1%) for a vessel of less than 20 meters and which provide the sound pressure levels specified in paragraph (c) of this section.
- (b) Limits of fundamental frequencies. To ensure a wide variety of whistle characteristics, the fundamental frequency of a whistle shall be between the following limits:
 - (i) 70-200 Hz, for a vessel 200 meters or more in length.
 - (ii) 130-350 Hz, for a vessel 75 meters but less than 200 meters in length.
 - (iii) 250-700 Hz, for a vessel less than 75 meters in length.
- (c) Sound signal intensity and range of audibility. A whistle fitted in a vessel shall provide, in the direction of maximum intensity of the whistle and a distance of 1 meter from it, a sound pressure level in at least one $\frac{1}{3}^{\text{rd}}$ -octave band within the range of frequencies 180-700 Hz (+/- 1%) for a vessel of 20 meters or more in length, or 180-2100 Hz (+/- 1%) for a vessel of less than 20 meters in length, ...". Range $\frac{1}{2}$ nautical mile for vessels less than 20 meters, 1 nautical mile for vessels 20 meters but less than 75 meters.

The Rules do not mention a “horn”. A whistle, bell, and gong shall be provided depending on the length of the vessel. Whistles, bells, and gongs have specific sound characteristics depending on the length of the vessel. The standard sports whistles used by many recreational boaters may not meet the frequency requirements and sound pressure levels for vessels 12 meters or more in length. A bell is not required on vessels less than 20 meters but the State can add that requirement if desired.

Recommend:

1. Delete “horn” from *IDAPA 26.01.30150 (01) and (02)*.
2. Replace current language in *IDAPA 26.01.30150 (01)* with language in Rule 33(a).
3. Replace current language in *IDAPA 26.01.150 (02)* with language in Rule 33 (b).
4. Add Maneuvering and Warning Signals (Rule 34).
5. Add Sound Signals in Restricted Visibility (Rule 35).
6. Add Signals to Attract Attention (Rule 36).

.175. Backfire flame control

“Except seaplanes, no person shall operate or permit to be operated any motorboat on the waters of this state unless each carburetor on every inboard gasoline engine installed in a motorboat shall be equipped with a U.S. Coast Guard approved backfire flame arrester or other means of backfire flame control approved for use by the U.S. Coast Guard, each of which is securely attached to the carburetor and in proper working order.” (7-1-93)

Discussion. Limits requirement to motorboats. Not every gasoline engine has a carburetor. 46 CFR subpart 25.35-1(a) requires “every gasoline engine installed in a motorboat or motor vessel after April 25, 1940, except outboard motors, shall be equipped with an acceptable means of backfire flame control.” From 46 CFR 58.10 (3) the following are acceptable means of backfire flame control:

- (i) A BFA complying with SAE J-1928.
- (ii) An engine air fuel induction system with a reed valve assembly.
- (iii) An arrangement of the carburetor or engine air induction system that will disperse any flames caused by engine backfire to the atmosphere outside the vessel that will not endanger the vessel, persons or nearby vessels.

Recommend. Rewrite to comply with 33 CFR 25.35-1. “Every gasoline engine installed in a vessel after April 25, 1940, except outboard motors, shall be equipped with an acceptable means of backfire flame control. “

I.C. 67-7018. Unlicensed Commercial Vessels. – It shall be unlawful for any person to operate, or to permit operation of any commercial vessel on the waters of the state of Idaho unless the same is currently inspected and licensed as set forth in Title 46, United States Code, Sections 362, 375,390-392, 399, 404, 416, 435, and 451, as revived. added 1986,ch 207, ss 2 p 515

Discussion. Confusing terms and obsolete references. Commercial vessel operators are “licensed” with a Merchant Mariner Credential issued by the USCG containing endorsements for where and what type of vessel they can operate. Commercial vessels may be uninspected or inspected depending on type of vessel (size/cargo/number of passengers). Research of the ten (10) Sections of Title 46 referenced revealed Historical and Revision Notes for six (6) entries in 46 CFR 3301 – Vessels Subject to Inspection. Manning and license requirements are contained in 46 CFR Part 15.

Recommend. Revise as follows:

It shall be unlawful for any person to operate or permit the operation of any commercial vessel on the waters of the state of Idaho unless currently inspected in accordance with 46 USC 3301 and manned in accordance with 46 CFR Part 15.

I.C. 67-7024. Water Skiing –

am 2011, ch 114, ss 1, p 313

IDAPA 26.01.30200. Warning flags for downed skiers. No person shall operate or permit to be operated any vessel used for towing water-skiers or similar devices in which persons or objects are being towed above, in, or on the waters of this state unless it shall have on board and display a warning flag as specified in Section 200 of this chapter. (7-1-93)

Discussion: “Wake surfing” surfers are not being towed but riding the wake without a tow line. **I.C. 67-7024** states “...vessels having in tow or otherwise assisting a person on water skis, aquaplane or similar contrivance to operate or propel the same”.

Recommend. Rewrite with language in I.C. 67-7024.

I.C. 67-7025. Interference with navigation. “It shall be unlawful for any person to operate any vessel on the water of this state in a manner that shall unreasonably or unnecessarily interfere with other vessels or with free and proper navigation on the waterways of the state. Violation of the rules of the road shall constitute interference”. added 1986, ch 207, ss 2, p 515

Discussion. The Idaho Criminal and Traffic Law Manual, Idaho Code, contains no further details covering the Rules of the Road. The Inland Rules of the Road contain 38 Rules, 5 Annexes, Interpretative Rules, Penalty Provisions, and Implementing Rules. In the “IDAHO Boating Laws and Rules 2017 UNOFFICIAL COPY” provided to Sheriff’s Marine Patrol Deputies by the Idaho Dept. of Parks and Recreation Boating Program I.C. 67-7025 lists a subset of Subpart B, Steering and Sailing Rules, (Rules 5, 6, 7, 8, 9, 12, 13, 14, 15, 16, 17, 18, and 19). Rule 19, Conduct of Vessels in Restricted Visibility, is listed but Rule 35, Sound Signals in restricted visibility, is not included. The penalty for violation of I.C. 67-7025 is a misdemeanor. The penalties for violations of the Rules of the Road not listed in “UNOFFICIAL COPY” i.e., Lights and Shapes (Rules 20-30), Sound and Light signals (Rules 32-35) are infractions under I.C. 67-7015 Safety Equipment. I.C. 67-7003 (21) defines Rules of the Road as “...means the statutory and regulatory rules governing the navigation of vessels as published by the United States Coast Guard...”. Does an Idaho Law Enforcement Officer write a Misdemeanor of any Rule of the Road violation or only those listed in the “UNOFFICIAL COPY”?

Recommend. A legal review to determine if any violation of the Rules of the Road is a misdemeanor.

I. C. 67-7027, Collisions, Accidents, and Casualties – Reports. (3) It shall be the duty of the operator of any vessel involved in a collision, accident or other casualty resulting in death or injury to a person or damage to property in excess of fifteen hundred dollars (\$1500): ... am 2010, ch 71, ss 1, p 119

Discussion. Using the language “injury” requires the operator to immediately notify the sheriff if a passenger injures themselves, applies a bandage to a fishing hook puncture and file a boat accident report. Statutes should be written in a manner that is purposeful and enforceable. There is no language in the statute or IDAPA that provides guidance as to contents and actual submission of the report.

33 CFR 174 Subpart C is the USCG State Casualty Reporting System Requirements. Applicability, 174.101.a. requires reporting to which 33 CFR 173.51 applies; b. reportable damage amount can be less than required in 173.55. 174.105, Owner or operator casualty reporting requirements must contain requirements of part 173. 55, 57 and 59. 33 CFR 173.51 applies to vessels operated for recreational purposes (including documented vessels) or required to be numbered (including OUPVs), but does not apply to vessels subject to inspection under Title 46 USC Chapter 33. 33 CFR 173.55 requires a report when a person dies, or injured beyond first aid, or damage is \$2,000 or more, or a complete loss of any vessel. CFR 173.57 lists the contents of the report. CFR 174.59 directs submission to the Reporting Authority.

Recommend. To bring I.C. 67-7027(3) into compliance with 33 CFR 174, add “or vessel is a total loss:” after (\$1500). To reduce frivolous reports, change “Injury” to “injury requiring treatment beyond first aid”.

I. C. 67-7033 Penalties am 2001, ch 159, ss1, p 567

(5). Any person who**67-7016** Grossly negligent operation and **67-7017** Negligent operation are both misdemeanors and have the same penalties – fined not more than \$300, imprisoned for a period not to exceed 30 days or both.

Discussion. Senate Bill 1274 amended I.C. 67-7016 and I.C. 67-7017 replacing the language with that from the Reckless Driving Statute in 49-1401(2) & (3). This was passed and signed into law on 07/01/2014. The penalty for Reckless Driving is not more than 6 months in jail and not more than \$1,000. The penalty for Inattentive Driving is not more than 90 days in jail and \$300. USCG civil penalty for Grossly negligent operation is not more than \$5,000 and Neg ops is not more than \$1,000.

Recommend. Increase Grossly negligent operation, I.C. 67-7016, penalty to not more than 6 months in jail and/or not more than \$1,000. Recommend increasing Negligent operation, I.C. 67-7017, penalty to not more than 90 days in jail and/or not more than \$300.

(6). Any person who...**67-7034** fined, imprisoned and required to attend a boating safety course.

Discussion. First offense fine and imprisonment penalties for DUI and OUI are similar except DUIs lose their driving privileges but OUIs do not lose their boating privileges. DUIs have enhanced penalties for second and subsequent offenses. Subsequent OUIs may, **at the discretion of the court**, lose boating privileges for up to two years.

Recommend. Add new subparagraphs as follows:

(d) "Shall be refused the privilege of operating any vessel on any of waters of this state for a period of ninety (90) days."

(e) Create penalties for subsequent OUIs that is similar to subsequent DUIs.

(f) Create a penalty for excessive OUI that is similar to excessive DUI.

I.C. 67-7035, Aggravated operating while under the influence... Any person causing great bodily harm, permanent disability or permanent disfigurement to any person other himself in committing a violation of the provisions of section 67-7034, Idaho Code, is guilty of a felony, and upon conviction:
added 1986, ch 368, ss 3, p 1084

(a) Shall be sentenced to the state board of correction for not to exceed five (5) years ...

(b) May be fined an amount not to exceed five thousand dollars (\$5,000).

(c) Shall have his privileges to operate a vessel suspended...

Discussion. The fine and loss of privileges are the same but the period of imprisonment for Aggravated DUI, 18-8006, is not to exceed fifteen (15) years. Why is the causing of great bodily harm, permanent disability or permanent disfigurement in a boat is less egregious?

Recommend. Revise the sentence to fifteen (15) years.

IDAPA 26.01.30500 Idaho Waterway Marking System.

This section needs a review by someone with more knowledge with the topic.

The USCG administers ATONS and has created MOAs for counties to maintain Aid to Navigation on local waters. It is unclear to me if they are considered as ATONS (33 CFR 62) or PATONS (33 CFR 66). Idaho has no waters listed in 33 CFR 66.05-100, Designation of State waters for private aids to navigation. The bottom line is this section is out of date.

01. Uniform System. "In the marking of water areas, as described in Section 67-7031, Idaho Code, the Uniform State Waterway Marking System shall be used..." (1-1-94)

Discussion. The navigable waters of the United States and non-navigable State waters after December 31, 2003, are marked to assist navigation using the U. S. Aids to Navigation System (USATONS), a system consistent with the International Association of Lighthouse Authorities (IALA)

Maritime Buoyage System (33 CFR 62.21). After seventeen (17) years any USWMS buoys should have been removed and replaced.

Recommend. Rewrite .01 as follows:

01. Uniform System. In the marking of water areas, as described in Section 67-7031, Idaho Code, the U.S. Aids to Navigation System (USATONS) shall be used.

07. Navigation Aids. Aids to navigation are used.... (1-1-94)

Discussion. The cardinal system was used in the USWMS system. USATONS does not use the cardinal system.

Recommend. Rewrite as follows:

07. Lateral Aids to Navigation. The lateral system employs a simple arrangement of colors, shapes, numbers, and light characteristics to mark the limits of navigable routes.

Delete 08. – 11

The Idaho Administrative Procedures Act
Idaho protection against invasive species sticker rules
IDAPA 26, Title 01, Chapter 34

010. DEFINITIONS.

05. Motorized Vessel. Any watercraft requiring certificate of number under Section 67-7008, Idaho Code, or any comparable U.S. vessel certificate of number program. (4-11-15)

06. Non-Motorized Vessel. Any watercraft used or capable of being used as a means of transportation on water that is propelled by human effort. For the purpose of this chapter this term does not include small inflatable rafts or other inflatable vessels less than ten (10) feet in length. (3-29-10)

Discussion. Confusing terms. Section 67-7008A(1)(a) uses the terms motorized vessels and sailboats assigning the same fee for motorized vessels and sailboats with different fees for Idaho Registered vessels and Documented vessels/out of state registered vessels. Section 67-7008(1)(b) uses the term nonmotorized vessels with no difference in fees for out of state vessels.

Recommend. Revise 010 as follows:

05. Power-driven Vessel. Any vessel propelled by machinery.

08. Sailboat. Any vessel under sail provided that propelling machinery, if fitted, is not being used.

Renumber remaining entry.

050. COLLECTION OF FEES AND DISTRIBUTION OF REVENUES INTO FUND.

02. Prorated Group Rates for Commercial Outfitters. (4-7-11)

b. Protection ...in compliance with IDAPA 25.01.01...Non-motorized commercial outfitters and guides... (4-7-11)

Discussion. Effective 1 July 2020 IDAPA 25.01.01 has been redesignated as IDAPA 24.35.01. The term "Non-motorized commercial outfitters and guides" is not used in IDAPA 24.35.01.

Recommend. Revise to read:

...in accordance with IDAPA 24.35.01, "Rules of the Outfitters and Guides Licensing Board", Subsection 054...Commercial outfitters and guides are not required to place a Protection Against Invasive Species Sticker on non-motorized vessels....

075. PROTECTION AGAINST INVASIVE SPECIES STICKER.

01. Motorized Vessels. Beginning... (4-11-15)

Discussion. Confusing term. The language used in 67-7008A(1) clearly identifies the as vessels registered in the state of Idaho.

Recommend. Replace the term “Motorized Vessels” with “Vessels registered in Idaho”.

076. PLACEMENT OF PROTECTION AGAINST INVASIVE SPECIES STICKER.

01. LOCATION.

a. Motorized vessel. (4-11-15)

Discussion. Confusing term. All vessels registered in any state will have a validation sticker.

Recommend. Revise to read:

Vessels registered outside the state of Idaho. The Protection Against Invasive Species Sticker should be affixed next to the current year validation sticker on the port (left) side of the vessel.

b. Non-motorized. Except as provided in Subsection 050.02a... (4-7-15)

Discussion. Subsection 050.02a discusses Group rates for Commercial outfitters. Subsection 050.02b discusses Protection Against Invasive Species Stickers and states “Non-motorized commercial outfitters and guides are not required to place a Protection Against Invasive Species Sticker on their vessels”. There is no location given for documented vessels which may or may not have validation stickers.

Recommend. Revise “Subsection 050.02a” to read “Subsection 050.02b”.

Add new”c.” as follows:

Documented vessels. The Protection Against Invasive Species Sticker should be affixed to the hull, port (left) side, forward half, as high above the waterline as practicable without decreasing the visibility of the sticker.