

**GAME, FISH AND PARKS COMMISSION ACTION
PROPOSAL**

**MOTORBOATS AND WATERCRAFT
41:04:05**

Commission Meeting Dates:	Public Hearing	March 6, 2014	Ft. Pierre
	Finalization	March 6-7, 2014	Ft. Pierre

COMMISSION PROPOSAL HIGHLIGHTS

1. Amend 41:04:05:06 to incorporate the federal navigation rules of the road by reference.
2. Repeal 41:04:05:10 thru 12 due to the incorporation of federal navigation rules by reference.
3. Create a new rule, 41:04:05:19, to address the overloading of boats.

Recommended changes:

~~**41:04:05:06. Applicability of traffic rules** Navigation rules. The traffic rules of the road provided in §§ 41:04:05:07 to 41:04:05:16, inclusive, are applicable to a boat when underway, whether the boat has headway or sternway. The rules apply to boats that are adrift or not under control, regardless of how they are powered. The navigation rules for all boats underway on the waters of the state are those in 33 CFR § 83.01-83.19 (December 18, 2013).~~

~~**41:04:05:10. Overtaking -- Right-of-way.** A boat is considered to be overtaking another boat when it is approaching from behind. The leading boat has the right-of-way and the overtaking boat has no right-of-way. In all instances an overtaking boat shall keep clear of an overtaken boat. Repealed.~~

~~**41:04:05:11. Procedure for passing oncoming boats.** If two boats are approaching each other head-on or nearly so, each pilot shall swing the bow of the boat to starboard and pass port side to port side. If equipped with a horn, each pilot shall give a short blast of the horn and, in addition to the sounding of the horn, each pilot shall indicate what the pilot's course will be by swinging the bow sharply to starboard. Repealed.~~

~~**41:04:05:12. Passing of boat with tow.** A boat with a tow is considered one boat. Boats passing a tow shall slow down if there is a chance their wash or wave will cause damage. Repealed.~~

~~**41:04:05:19. Overloading prohibited.** A boat shall not be loaded with passengers or cargo beyond its safe carrying capacity and the total horsepower of any inboard or attached outboard motor shall not exceed the total horsepower rating as stated on the capacity plate and affixed to the boat by the manufacturer.~~

SUPPORTIVE INFORMATION

The navigational rules of the road are addressed in 41:04:05. However, the list is not all inclusive when compared to the federal listing. In order to better address navigational situations and educate the boating public on the rules of the road, the Department recommends adopting the inland navigation rules as listed in 33 CFR 83.01-83.19. Incorporating these rules by reference would allow for the repeal of three existing administrative rules.

Federal regulations have required capacity plates on monohull boats less than 20 feet in length (except sailboats, canoes, kayaks, and inflatables) since 1972. Unfortunately, there are still many boaters that are unaware that they exist, unsure of what they mean, or simply choose to ignore them. Law enforcement officers encounter vessels being operated while overloaded on a regular basis. Additionally, our department receives numerous calls from the boating public regarding the laws and regulations related to capacity plates on vessels. The adoption of this rule will allow law enforcement to better address overloading instances that occur on the water and enable agency staff to more effectively respond to inquiries from the boating public. At the same time, this regulation will reinforce the importance for the boating public to understand capacity plates, their meaning, and the potential safety issues that arise when boats are overloaded.