

TITLE 18 TRANSPORTATION AND HIGHWAYS
CHAPTER 17 NAVIGATION AND BOATING
PART 4 BOATING SAFETY EDUCATION

18.17.4.1 ISSUING AGENCY: Energy, Minerals and Natural Resources Department.
[18.17.4.1 NMAC - N, 1/01/07]

18.17.4.2 SCOPE: This part applies to persons born on or after January 1, 1989 who operate a motorboat on the state's waters, motorboat rental and leasing businesses and boating safety course providers.
[18.17.4.2 NMAC - N, 1/01/07]

18.17.4.3 STATUTORY AUTHORITY: NMSA 1978, Section 66-12-18.1 directs the energy, minerals and natural resources department, state parks division to adopt safe boating education rules.
[18.17.4.3 NMAC - N, 1/01/07]

18.17.4.4 DURATION: Permanent.
[18.17.4.4 NMAC - N, 1/01/07]

18.17.4.5 EFFECTIVE DATE: January 1, 2007, unless a later date is cited at the end of a section.
[18.17.4.5 NMAC - N, 1/01/07]

18.17.4.6 OBJECTIVE: This part's objective is to set forth rules that require motorboat operators born on or after January 1, 1989 to have and present evidence of successful completion of an approved course on safe boating and prohibit motorboat rental and leasing businesses from renting or leasing a motorboat to persons born on or after January 1, 1989 who cannot present evidence of successful completion of an approved course on safe boating, unless the rental agent provides instructions to the authorized operator of the rented or lease motorboat concerning the motorboats' safe operation. This part also requires motorboat rental and leasing businesses to maintain certain rental or lease records.
[18.17.4.6 NMAC - N, 1/01/07]

18.17.4.7 DEFINITIONS:

A. "Approved course provider" means a division-approved person or organization that provides a NASBLA approved and state certified boating safety course and exam.

B. "Boater education card" means a division-issued document certifying that the person named on the document has established proof of competency and is authorized to operate a boat in New Mexico.

C. "Boating safety course" means a NASBLA approved division-certified course of instruction that concludes with an examination containing at least 50 questions including a minimum of 10 specific questions about New Mexico boating laws.

D. "Certificate" means a boating education safety certificate issued by the United States power squadrons, United States coast guard auxiliary, the division or other approved course provider as evidence of successful completion of a boating safety course or correspondence internet course.

E. "Correspondence internet course" means a boating safety course and examination the division or approved course provider offers on the internet that allows individuals who are unable to participate in person in a boating safety course a means providing proof of competency. The exam shall be composed of at least 50 questions on boating plus a minimum of 10 specific questions that cover laws and other issues pertaining to boating in New Mexico. The exam shall be randomly selected from a database with a minimum of 150 questions; and questions shall address each of the key areas of general boat information, national and New Mexico specific boating laws, boat operation, preparation and trailering, legal requirements and boating emergencies.

F. "Department" means the energy, minerals and natural resources department.

G. "Division" means the energy, minerals and natural resources department, state parks division.

H. "Dockside safety checklist" means a division-provided document that consists of selected facts about New Mexico boating laws that a rental or livery agent that rents or leases motorboats for a period that does not exceed 30 days shall provide to each authorized motorboat operator of a leased or operated motorboat, which each authorized motorboat operator shall read and sign.

I. "Equivalency exam" means a division-created exam containing at least 50 questions on boating plus a minimum of 10 specific questions that cover laws and other issues pertaining to boating in New Mexico,

which is intended to provide experienced boaters with an opportunity to meet the minimum boating education safety standard without taking boating safety course.

J. "Minimum standard of boating safety education competency" means a division-established proficiency standard, based on NASBLA standards, that determines whether an applicant for a boating education card has successfully completed a boating safety or correspondence internet course or an equivalency exam.

K. "Motorboat" means any vessel propelled by machinery, whether or not machinery is the principal source of propulsion, but does not include a vessel that has a valid marine document issued by the United States bureau of customs or any federal agency successor thereto; motorboat includes any vessel propelled or designed to be propelled by sail and that does not have a valid document issued by a federal agency, but does not include a sailboard or windsurf board.

L. "NASBLA" means the national association of state boating law administrators.

M. "Operate" or "Operating" means to navigate or otherwise control a motorboat's movement including control of the motorboat's propulsion system.

N. "Operator" means the person who navigates or is otherwise in control or in charge of the motorboat's movement, including control of the motorboat's propulsion system.

O. "Person" means an individual, partnership, firm, corporation, association, joint venture or other entity.

P. "Proof of competency" means evidence of having met the minimum standard for boating safety education competency as determined by the division.

Q. "Rental agent" means the owner, or an employee of or person authorized to act for the owner, of a business that rents or leases motorboats for a period not exceeding 30 days.

R. "Rental motorboat" means a motorboat owned by a person that rents or leases motorboats for a period not exceeding 30 days and for which there is a written and signed rental, charter or lease agreement for the motorboat.

S. "Replacement boater education card" means a boater education card the division provides to a person who the division has already issued a boater education card and who has applied for the replacement of a boater education card that has been lost, damaged, stolen or otherwise needs replacement.

T. "Vessel" means every description of watercraft, other than a seaplane, used or capable of being used as a means of transportation on the water.

U. "Waters of the state" means any waters within the state's jurisdiction.

[18.17.4.7 NMAC - N, 1/01/07]

18.17.4.8 BOATER EDUCATION CARD:

A. A person born on or after January 1, 1989 who operates a motorboat on the state's waters shall possess a division-issued boater education card and have it onboard the motorboat during its operation unless the person:

(1) possesses and has onboard the motorboat a valid marine operator license issued by the United States coast guard that covers the motorboat being operated;

(2) is legally operating a motorboat that is exempt from vessel registration requirements and applicable rules and is being used for law enforcement or official government business;

(3) is not a New Mexico resident and possesses and has onboard the motorboat a current boater education card or certificate issued by another state or country whose requirements meet NASBLA minimum standards;

(4) has purchased the motorboat within the prior 30 days, and possesses and has onboard the motorboat the bill of sale or motorboat registration that documents the purchase date; or

(5) is renting a motorboat for a period not exceeding 30 consecutive days, is an authorized operator of the rental motorboat and has reviewed and received the information listed in Subsection B of 18.17.4.13 NMAC from the rental agent.

B. A person that has successfully completed a boating safety course or correspondence internet course may use a boating education safety certificate in lieu of a division-issued boater education card for up to 45 days from the certificate's date of issue if the certificate is onboard the motorboat during operation.

C. A person that has moved to New Mexico may use a boater education card, certificate or other document issued by another state or country in lieu of a division-issued boater education card for up to 45 days after moving to New Mexico to operate a motorboat if the original certificate, card or document is onboard the motorboat during operation.

[18.17.4.8 NMAC - N, 1/01/07]

18.17.4.9 BOATER EDUCATION REQUIREMENTS: A person required to possess a boater education card shall meet the following minimum standards:

- A. successful completion of a boating safety course with a passing score of at least 80 percent on a written test administered by the course instructor at the course's conclusion;
- B. successful completion of a correspondence internet course with a passing score of at least 80 percent on the self administered test;
- C. possession of a certificate, card or other document issued by another state or country whose requirements meet NASBLA minimum standards;
- D. successful completion of an equivalency exam with a passing score of at least 80 percent;
- E. possession of a United States coast guard motorboat operator's license; or
- F. possession of a license to operate a vessel issued by the United States coast guard for maritime personnel pursuant to 46 CFR Part 10, as may be amended, or a maritime certificate issued by the Canadian government.

[18.17.4.9 NMAC - N, 1/01/07]

18.17.4.10 COURSE PROVIDER ACCREDITATION:

A. To become an approved course provider persons shall apply with the division's Santa Fe office on a division-approved form that includes the course provider's name, address and phone number; the names of all instructors; the dates the provider would offer the course; proposed course content, and whether the provider will offer the course in person or on the internet as well as documentation that NASBLA has approved the proposed course. The division shall deny or approve the application within 30 days after its receipt, or if the division requires more time it shall notify the applicant of the reason and shall approve or reject the application as soon as possible.

B. In approving a course provider the division shall:

- (1) follow the NASBLA process for course review and approval and shall review each course the person proposes to provide;
- (2) require the person or organization use the NASBLA testing standards for exam questions;
- (3) require the person or organization use the division-created question pool that meets NASBLA examination questions standards and covers New Mexico state boating laws and rules; and
- (4) require the person or organization to meet any additional requirements the division may have regarding the course presentation, course marketing, examination process, or data security.

[18.17.4.10 NMAC - N, 1/01/07]

18.17.4.11 APPLICATION FOR A BOATER EDUCATION CARD:

A. To apply for a boater education card, a person shall submit to the division Santa Fe office a completed application that includes:

- (1) the applicant's name, address, phone number, date of birth, applicant's signature and other information the division may need to process the application; and
- (2) proof of competency document, containing the applicant's name, which shall include one of the following:
 - (a) a copy of the original certificate issued by the United States power squadrons, United States coast guard auxiliary, the division or other approved course provider;
 - (b) evidence that the applicant has successfully passed an equivalency exam;
 - (c) a Canadian pleasure craft operator's card;
 - (d) a copy of the original certificate, card or other official document issued by another state or country whose requirements meet NASBLA minimum standards;
 - (e) a copy of an original United States coast guard motorboat operator's license, either valid or expired;
 - (f) a copy of a valid license to operate a vessel issued by the United States coast guard for maritime personnel pursuant to 46 CFR Part 10, as may be amended, or a maritime certificate issued by the Canadian government.

B. If the applicant does not have the original certificate or other document establishing proof of competency, the applicant may submit a signed notarized statement from the course provider or issuing agency stating that the applicant has successfully completed a boating safety course or internet correspondence course or passed an equivalency exam or possesses one of the documents listed in Subparagraphs (c) through (f) of Paragraph (2) of Subsection A of 18.17.4.11 NMAC.

C. The division may require the applicant to present the original document establishing proof of competency to the division for inspection if the copy accompanying the application is illegible or if the division has concerns about the document's authenticity.
[18.17.4.11 NMAC - N, 1/01/07]

18.17.4.12 REPLACEMENT BOATER EDUCATION CARD:

A. A person may request a replacement boater education card from the division if the person:

- (1)** has legally changed his or her name; or
- (2)** has had his or her boater education card lost, stolen or destroyed.

B. To obtain a replacement boater education card, the person shall provide the division with the boater education card number and an affidavit stating the circumstances that led to the loss or destruction of the original boater education card or proof of name change such as a court order or marriage license along with a replacement fee of \$10.
[18.17.4.12 NMAC - N, 1/01/07]

18.17.4.13 RENTAL AGENTS: A person in the business of renting or leasing motorboats for a period not exceeding 30 days shall:

A. ensure that a person born on or after January 1, 1989 and who will rent or be an authorized operator of the rental motorboat meet the requirements in 18.17.4.8 NMAC and not rent the motorboat or allow the person to be an authorized operator if the person does not meet those requirements;

B. provide each authorized operator of the rental motorboat instructions regarding the motorboat's safe operation, which shall include the dockside safety checklist that includes such information as a sail/float plan, emergency preparedness, pre-departure maintenance check, required equipment check, handling/loading specifications and weather forecast and a summary of the statutes and rules governing the motorboat's operation;

C. ensure that each person who rents the motorboat and all authorized operators:

- (1)** review, initial and sign the dockside safety checklist in the rental agent's presence before they operate the rental motorboat; and
- (2)** retain the issued copy of the dockside safety checklist onboard while operating the rental motorboat; and

D. maintain rental or lease records for three years that include the name and age of each person who is authorized to operate the rental motorboat and the rental period.
[18.17.4.13 NMAC - N, 1/01/07]

HISTORY OF 18.17.4 NMAC: [RESERVED]