

TEXT

(Authority: Article 4 of the Navigation Law and subdivision (8) of section 3.09 of the Parks, Recreation and Historic Preservation Law)

Part 451 of 9 NYCRR is repealed and a new Part 451 is adopted to read as follows:

PART 451 – SAFE BOATING

Section 451.1	Purpose and scope
Section 451.2	Boating safety certificate or exemption required
Section 451.3	Application for a boating safety certificate
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Section 451.1 Purpose and scope.

(a) The commissioner (“commissioner”) of the Office of Parks, Recreation and Historic Preservation (“agency”) establishes a comprehensive safe boating education program through the Marine Services Bureau of this agency to:

- (1) teach basic boating skills necessary for safe and enjoyable boating;
- (2) impart to each student a sense of responsibility for their actions when operating a vessel or personal watercraft (“PWC”);
- (3) impart an understanding of what could happen if the student neglects that responsibility and fails to observe safe boating principles;
- (4) encourage each student to use common sense and be courteous to other users of the waterway; and
- (5) encourage each student to take the time and effort to learn more about boating.

(b) The safe boating program includes:

- (1) requirements for certain vessel or PWC operators to carry the boating safety certificate issued by the agency;
- (2) standards for teaching the New York Safe Boating Course (“New York course” or “course”);
- (3) standards for receiving a boating safety certificate;
- (4) standards for instructor certification; and
- (5) standards for commercial organization certification.

(c) The agency’s address for all correspondence and submissions regarding this program is the Office of Parks, Recreation and Historic Preservation, Marine Services Bureau, Agency Building 1, Empire State Plaza, Albany, NY 12238.

Section 451.2 Boating safety certificate or exemption required.

- (a) An operator of a vessel or a PWC must comply with safe boating principles.
- (b) A youth who is at least 10 but less than 18 years old must not operate a vessel without adult supervision unless the youth has obtained and is carrying a boating safety certificate or exemption.
- (c) A person who is at least 14 years old must not operate a PWC without obtaining and carrying a boating safety certificate or exemption.
- (d) A youth who is less than 14 years old must not operate a PWC without supervision by an adult who has obtained and is carrying a boating safety certificate or exemption.

Section 451.3 Application for a boating safety certificate.

In general, every person who is required to carry a boating safety certificate must:

- (a) register for the course with the volunteer instructor, commercial instructor or commercial organization that is sponsoring the course;
- (b) provide the information required, affirm and sign the student record form distributed at the course;
- (c) attend all course sessions;
- (d) attain at least age 10 before taking the course;
- (e) successfully complete the course requirements, including a score of at least 76 percent on the final examination, and comply with this Part.

Section 451.4 Temporary and permanent boating safety certificate.

(a) Temporary certificate. The instructor issues the temporary boating safety certificate directly to a student who successfully completes the course requirements and the instructor notifies the agency. The temporary certificate is valid for 90 days. The instructor shall not issue more than one temporary certificate nor issue a replacement certificate to a student.

(b) Permanent certificate. The agency issues the permanent boating safety certificate as follows:

(1) Adult operator. After receiving the temporary certificate the adult operator (age 18 or over) must follow the directions on the student record form, apply to the agency for a permanent boating safety certificate, and pay the \$10 fee (by credit card, check or money order) to the agency. After receiving the instructor's properly completed forms and the adult operator's properly completed form and fee, the agency may issue the boating safety certificate directly to the operator by regular mail; or

(2) Youth operator (at least age 10 but less than age 18). After receiving the instructor's properly-completed forms, the agency may issue the permanent boating safety certificate directly to the youth operator by regular mail.

(3) Replacement boating safety certificate and fee. In the event the original boating safety certificate is lost, mutilated or destroyed an operator must apply to the agency's Marine Services Bureau for a replacement boating safety certificate and pay the agency a \$10 processing fee (by credit card, check or money order). The agency may issue the replacement directly to the operator by regular mail.

Section 451.5 Exemptions.

(a) A person is exempt from carrying a boating safety certificate or taking the course if they hold at least one of the following valid certifications, licenses, memberships or status. A copy of that certification, license, membership or status information must be carried by the operator and produced upon request of a law enforcement or judicial officer. A law enforcement or judicial officer may require the operator to produce the original certification, license, membership or status document within a reasonable time period:

(1) safe boating instructor certification issued by the agency;

(2) membership in good standing of the United States Power Squadron or a safe boating certification issued by the United States Power Squadron;

(3) membership in good standing of the United States Coast Guard Auxiliary or a safe boating certification issued by the United States Coast Guard Auxiliary;

(4) valid license issued under section 64 of the Navigation Law;

(5) valid operator's license issued by the United States Coast Guard or the Canadian Coast Guard;

(6) police officer, peace officer, firefighter, emergency rescue personnel or lifeguard acting within the scope of their official duties; or

(7) non-resident or New York resident who has received comparable safe boating instruction and is holding a valid comparable certificate issued by the state or country where they presently reside or recently resided;

(i) however, a New York resident holding a valid comparable certificate issued by a former state or country of residence must apply for a boating safety certificate and complete the course within a one year grace period after moving into the State;

(ii) the agency retains the discretion to review any out-of-state instruction to determine whether it is equivalent to the New York course. If the agency finds the out-of-state course is not equivalent it may require a non-resident to apply for a boating safety certificate and complete the course requirements, or may require a new resident of New York to apply for the boating safety certificate and complete the course requirements prior to expiration of the one-year grace period.

Section 451.6 Suspension or revocation of boating safety certificate.

(a) The agency may suspend or revoke a boating safety certificate issued to an operator:

(1) if the operator holding the boating safety certificate is found guilty of boating while intoxicated under sections 49-a or 49-b of the Navigation Law, or is found guilty of reckless operation of a vessel or PWC and the privilege to operate the vessel or PWC is suspended under section 45 of the Navigation Law; or

(2) if the agency determines that the operator knowingly provided false answers to questions on the student record form or obtained the boating safety certificate through fraudulent means or in violation of this Part.

(b) The agency may suspend or revoke a boating safety certificate issued to an operator if the operator's instructor:

(1) did not hold a valid instructor certification issued by the agency;

(2) failed to follow any of the course requirements or conducted classes or administered the examination in a way that the agency determines failed to give the student sufficient knowledge or mastery of safe boating practices as outlined in sections 75 through 79 of the Navigation Law; or

(3) helped the student obtain the boating safety certificate by fraudulent or unlawful means.

(c) The agency may also suspend or revoke a boating safety certificate issued to a youth operator if the youth operator is found guilty of a felony, misdemeanor or violation related to any provisions of the Navigation Law or a violation of this Subchapter.

(d) After the suspension period expires or one year after revocation, the operator may re-apply for another boating safety certificate, complete the course requirements and pay the \$10 fee if applicable (by credit card, check or money order) to the agency.

Section 451.7 Definitions.

(a) *Boating safety certificate* means the permanent agency-issued wallet-sized, card that includes the name of the operator; boating safety certificate number; operator's date of birth, sex and eye color; and issue date. It satisfies the requirements of subdivisions (1) and (1-a) of section 49 of the Navigation Law. It includes the temporary boating safety certificate that the instructor awards to the operator that is valid for only 90 days.

(b) *Commercial organization* means an organization that is affiliated with more than one commercial instructor and has received a certification from the agency to coordinate instruction in the New York Safe Boating Course. The commercial organization must have a manager or owner who is responsible for charging a fee to students, managing recordkeeping, registering students for classes, transacting business with the agency on behalf of the commercial organization's affiliated instructors and ensuring that its instructors implement the course requirements, the Navigation Law and this section, and that they comply with the New York Safe Boating Instructor Guide.

(c) *Course* means the New York Safe Boating Course that includes the requirements described in section 451.6 of this Part.

(d) *Course attendance form* means the roster and information for all students registered for a safe boating course. It includes the students' attendance records, test scores, issued student record form numbers, the course commencement and completion dates, name and location of the training facility, the lead instructor's name and identification number and the names of other instructors, instructors-in-training or persons who assisted in teaching the course. The number of entries on this form must match the number of students that were in attendance at the course commencement and the number of student record forms submitted to the agency for that course.

(e) *Exemption* means a valid certification, license, membership or status described in Section 451.5.

(f) *Fraudulent practice* means any conduct or representation of the instructor that could induce another to believe or conveys the impression to a reasonable person that a boating safety certificate or other privilege granted at the discretion of the agency could be obtained in any way other than as described in this Part. It also means collecting, requesting, accepting or exacting money or other compensation or fees for the course in a manner different from what is allowed in this Part.

(g) *Instructor* means a person who has a valid certification issued by the agency that indicates he or she is qualified to teach the course.

(1) A *volunteer instructor* teaches the course but does not charge the student a fee. The volunteer instructor may collect a nominal proportional custodial or room use charge from the student that may be assessed by the host training facility, or may collect a nominal discretionary donation from a student who voluntarily wishes to contribute to the not-for-profit organization that is sponsoring the course, or may collect both a charge and a donation. The agency may require an entity to submit documents that evidence its status as a training facility or not-for-profit organization.

(2) A *commercial instructor* teaches the course and charges the student a fee directly or is affiliated with a commercial organization that charges the student a fee.

(h) *Operator* means a person who operates a vessel or personal watercraft.

(i) *Personal watercraft* means a craft that is less than 16 feet in length, propelled by a water jet pump as its primary source of motor propulsion and designed to be operated by a person who sits, stands, or kneels on it rather than designed to be operated by a person who sits or stands inside it. For purposes of this Part it also includes specialty prop-craft as defined in subdivision 31 of section 2 of the Navigation Law.

(j) *Safe boating principles* mean operating a vessel or PWC in a prudent manner as outlined in the course materials and textbook supplied by the agency.

(k) *Student record form* means a document that includes the following three parts:

- (1) a temporary boating safety certificate that may be used for 90 days;
- (2) a student application for a permanent boating safety certificate; and
- (3) a record of class attendance with the graded final examination and student and instructor's affirmations and signatures.

(l) *Training facility* means a room that is:

- (1) located in a school, library, office, or portion of a building that is used for commercial, public, educational, charitable and non-residential activities;
- (2) clean, adequately lighted, heated and ventilated and free from any visual or audible distractions;
- (3) provided with adequate toilet facilities for all students, including persons with disabilities;
- (4) capable of seating all enrolled students at desks or tables;
- (5) equipped with adequate chalkboards, whiteboards or flipcharts that are clearly visible from all seating areas and with all other facilities necessary for adequate presentation of course materials;
- (6) accessible to persons with disabilities.

(m) *Vessel* means any floating craft as defined in subdivision 6 of Section 2 of the Navigation Law, however, for purposes of this Part only it excludes personal watercraft (defined here separately), a rowboat, canoe, kayak or crew racing shell.

Section 451.8 New York safe boating course requirements.

Only persons who have received an instructor certification issued by the agency may teach the course. The instructor or the commercial organization must comply with the following requirements:

(a) Pre-registration. At least two weeks before a course is scheduled to begin and before it is advertised the instructor or the commercial organization shall pre-register the course with the agency by providing the following information: dates, times, name of training facility and its location, names of lead instructor and names of any additional instructors that are scheduled to teach the course, number of classroom sessions, age restrictions (if any), class sizes, total enrollment; instructional fees charged to students (if any) and any other information required by the agency.

(1) Class sizes may vary between 6 and multiples of 30 students per instructor. Requiring 30 students per instructor means that a class of 90 students, for example, would require a lead certified instructor and 2 additional certified instructors to teach it.

(2) An instructor may not register a class of less than 6 students nor more than 30 students per instructor. If an instructor pre-registers 6 students and at least 2 students attend, the instructor may, nevertheless, teach the class.

(b) Instruction. A minimum eight hours total classroom instruction taught by an instructor with at least one 10-minute break per hour is required. During an all-day session three 10-minute breaks may be accumulated and a 30-minute meal substituted for the breaks. The eight hours of instruction must include a review period and the final examination. Instructors-in-training or qualified and recognized experts in the safe boating field may occasionally teach all or part of the lessons but a certified instructor must be present and the lesson plans must be followed.

(c) Course materials. Instructors must follow the lesson plans, policies, procedures and use the textbook supplied by the agency. These course materials are based on or meet the current requirements of the National Association of State Boating Law Administrators (NASBLA) and the *New York Safe Boating Instructor Guide* issued by the agency. Instructors shall not focus the instruction to cover only points covered on the final examination nor provide students with the answers to questions in lieu of following the lesson plans. The New York course materials provided by the agency may not be used to satisfy any other certificate required by any other commercial or governmental entity.

(d) Final examination. The final examination shall be a closed-book test supplied by the agency and administered only after the instructional phase of the course has been completed. No examinations for other certificates or licenses may be administered or taken during the course. The student must obtain a 76 percent grade on the examination.

(e) Receipt. The commercial instructor or commercial organization must provide a receipt to the student for any fee collected. The volunteer instructor must provide a receipt to the student for any charge or donation collected. All instructors must maintain copies of these receipts for five years after issuance and make them available to the agency when requested. Alternatively, commercial instructors' receipts may be maintained for five years by their affiliated commercial organizations.

(f) The agency retains discretionary authority to decline to send course materials and final examinations for a course to any instructor or commercial organization that the agency determines has not followed or is not following the minimum requirements outlined in this Part.

Section 451.9 Instructor or commercial organization recordkeeping.

The agency will provide the required student record forms and course attendance forms to each instructor or to a commercial organization for those courses that the instructor or commercial organization pre-registers with the agency.

- (a) The instructor must ensure that the student fills out the student record form prior to taking the final examination.
- (b) The instructor or the manager of the commercial organization must maintain and account for the student record form. The instructor or commercial organization must immediately notify the agency of the loss, destruction or mutilation of a student record form. The agency may decline to issue a boating safety certificate to a student whose student record form is missing, mutilated, destroyed, or fraudulently completed.
- (c) The instructor must submit the completed student record forms and the completed course attendance form to the agency within seven days of the course's conclusion. Alternatively, an instructor affiliated with a commercial organization may send the forms to the manager of the affiliated commercial organization within seven days of the course's conclusion. The manager, in turn, must send the complete course forms to the agency within 21 days of the course's conclusion.
- (d) Student record forms not accounted for on an instructor's course attendance form may be rejected by the agency and the agency may not issue a boating safety certificate to the student.
- (e) If the instructor's certification is suspended or revoked or if an instructor ceases teaching, the instructor must return the completed, partially-completed or unused student record forms and course attendance forms, and surrender the instructor's certification to the agency.
- (f) The instructor who is affiliated with a commercial organization may transfer all completed or unused student record forms and course attendance forms to the manager of the commercial organization. The manager must provide an accounting of the forms to the agency and may:
 - (1) provide another affiliated instructor to teach a course that is in progress;
 - (2) immediately return the unused forms to the agency; or
 - (3) re-distribute the unused student record forms to other instructors affiliated with that commercial organization.
- (g) The instructor or manager of the commercial organization shall maintain a record of all experts who teach a class during a course. Each record shall indicate the name, address, qualifications of the expert and lecture date.
- (h) Additional recordkeeping requirements for a commercial organization. The agency may issue student record forms to a commercial organization in batches of up to 250 maximum for pre-registered courses. All outstanding forms in one batch must be accounted for by the manager of the commercial organization before the agency may issue a new batch. This accounting shall include:

- (1) tracking each student record form on a schedule form provided by the agency and making the schedule available upon the agency's request;
- (2) disbursing only the required number of student record forms to affiliated instructors on a monthly basis;
- (3) notifying the agency within seven days of receiving mutilated or destroyed student record forms or within seven days of learning that forms may be missing; and
- (4) keeping copies of all records required to be submitted under this Part for five years and making them available to the agency for inspection when requested.

Section 451.10 Instructor certification.

(a) Initial application. A person interested in teaching the course must apply directly to the agency for certification as a safe boating instructor before commencing course instruction. The application must be completed on forms prescribed and supplied by the agency. The application is available from and must be filed with the Office of Parks, Recreation and Historic Preservation, Marine Services Bureau, Agency Building 1, Empire State Plaza, Albany, New York 12238.

(1) The applicant must provide a name, date of birth, address and any other names the applicant has used or been known by. All information or documentation requested on the forms must be provided. The applicant must sign and swear to the truth and accuracy of the information and have the signature notarized.

(2) A criminal background check will be conducted by the agency on each applicant.

(b) Requirements. An applicant for an initial instructor certification must demonstrate to the agency's satisfaction that he or she is

(1) 18 years of age or older;

(2) of sound mind and good moral character;

(3) in possession of a boating safety certificate or a graduate of the New York State Marine Law Enforcement Course;

(4) familiar with safe boating practices and the Navigation Law and demonstrates that knowledge by passing an examination that may be written or oral at the discretion of the agency;

(5) in possession of course lesson plans and the New York Safe Boating Instructor Guide and has mastered the material;

(6) scheduled to attend or has attended a seminar entitled "Introduction to the New York Safe Boating Safety Course" which will be given upon request at least once a month at the Marine Services Bureau office in Albany, NY; and

(7) trained as an instructor and competent to teach the course as determined by the agency. In determining competency the agency may accept one or more of the following documents:

(i) a certified written recommendation from the supervising certified instructor on a form provided by the agency. This recommendation must indicate the applicant has assisted in teaching classes to the supervising instructor's satisfaction during at least four courses and as outlined in the New York Safe Boating Instruction Guide;

(ii) copy of a teaching license issued by the New York Board of Regents or equivalent teaching license issued by another state or province;

(iii) copy of an instructor development certification or other evidence of police officer, peace officer, firefighter or emergency medical personnel instructor training;

(iv) copy of current instructor certification issued by the United States Coast Guard Auxiliary or the United States Power Squadron;

(v) any other evidence acceptable to the agency that demonstrates to the agency's satisfaction the applicant has equivalent instructor training.

(d) Instructor certification. The agency reviews the initial application and requirements and may issue or deny the instructor certification. The certification is in the form of a card and includes a specific instructor number and an expiration date. The instructor must carry this card during class instruction and may hold it in lieu of a boating safety certificate (if one is required) when operating personal watercraft. The instructor must present the instructor certification upon request at any time to agency staff or the agency's designee along with photo identification.

(e) Instructor probation and agency's audit. The instructor in receipt of an initial instructor certification is subject to probation that ends after the initial two years or sooner if agency staff or the agency's designee issues a satisfactory evaluation after auditing the instructor's classroom teaching performance.

(f) Renewals. An instructor's certification is valid for a term of two calendar years and an instructor must apply for renewal prior to expiration of the certification. If an instructor has taught at least one course during the two-year term, has complied with the requirements of this Part and has obtained satisfactory evaluations if audited by the agency, then the certification will be automatically renewed.

(1) Alternatively, if an instructor applies for renewal of an expired certification within one year of the expiration date, the agency may require the instructor to do one or more of the following before renewing the certification:

(i) take the course again;

(ii) attend a seminar entitled "Introduction to the New York Safe Boating Course";

(iii) teach at least one course;

(iv) receive a satisfactory evaluation from agency staff or agency's designee after an audit of classroom performance; or

(v) pass a written or oral examination on safe boating practices and Navigation Law requirements.

(g) Any application submitted more than one year after the certification expires may be re-issued only at the agency's discretion and must comply with the requirements for initial instructor certification.

(h) Denial. The agency may deny an application for initial instructor certification or a renewal or re-issuance if the applicant conceals relevant information or knowingly makes a partial or false entry on any part of the initial, renewal or re-issuance application, or if the applicant fails to disclose a prior boating safety certificate or instructor certification suspension or revocation, or if the applicant has been convicted of or has any pending charges related to any felony, misdemeanor or violation, except a traffic infraction.

(i) Suspension or revocation. The agency may immediately suspend or revoke an instructor's certification under section 451.13 of this Part if the instructor:

(1) violates any section of this Part;

(2) refuses to permit agency staff or the agency's designee audit a class;

(3) receives two unsatisfactory evaluations;

(4) displays poor judgment or inappropriate behavior in interacting with students;

(5) has been convicted of or charged with any felony, misdemeanor or violation, except a traffic infraction;

(6) engages in any fraudulent practice; or

(7) harasses, threatens or assaults or otherwise disparages any other instructors, prospective students, students or agency representatives.

Section 451.11 Commercial organization certification.

(a) Initial application. The manager of a commercial organization that intends to provide the course for a fee to the public through an affiliation with more than one instructor must apply to the agency in December of each year on forms provided by the agency to obtain a commercial organization certification. The application must be filled in completely and include the following:

(1) the name of the commercial organization;

(2) the commercial organization's principal place of business which is the mailing address for all correspondence and exchange of materials and forms between the organization and the agency;

(3) the names and addresses of the owner and manager of the commercial organization. If the owner and manager signing the application have ever used or have ever been known by another name, such name or names

must be listed on the application. If the commercial organization changes ownership, management, or dissolves, the agency must be notified within 10 days;

(4) the names and addresses of all instructors affiliated with the commercial organization;

(5) statements attesting to the owner's and manager's good characters, reputations, fitness, and ability to comply satisfactorily with this Part. The application must be certified and signed by the owner and manager and their signatures must be notarized. Excluding requested information or making a partial or false entry on any part of the application is a violation of this section and will result in a denial of the application.

(b) Renewals. A renewal application must be submitted at least 30 but not more than 60 days prior to the expiration date of the commercial organization certification that is being renewed. Failure to file a renewal application within this period may delay issuance of the renewal certification, and result in a time period during which the applicant is uncertified and not authorized to provide the course. The agency shall not accept a renewal application after December 31 which is the expiration date of the commercial organization certification, and the applicant must apply for re-issuance of an initial commercial organization certification.

(c) Certification. The agency may issue a commercial organization certification and renewal certifications upon satisfactory completion of the application. A commercial organization certification must be held solely by the commercial organization to which it is issued and shall not be transferred to another commercial organization. It must be prominently displayed in the principal place of business or the training facility. The commercial organization certification shall include the following information:

(1) the name of the commercial organization;

(2) the names of the owner and manager of the commercial organization;

(3) the address of the principal place of business of the commercial organization;

(4) a list of affiliated instructors;

(5) the expiration date, which is December 31 of the year for which the certification is issued.

(d) The commercial organization must:

(1) not knowingly affiliate with or employ any instructor who has been convicted of or charged with a felony, misdemeanor or violation (except a traffic infraction) unless prior approval to employ or affiliate with this person is granted by the agency, upon a sworn and notarized affidavit or other proof of the facts as the agency shall require from that instructor or the owner, manager, partner, officer, agent or employee of the commercial organization;

(2) not use an instructor whose certification has been suspended or revoked by the agency under this Part;

(3) ensure that affiliated instructors maintain the standards set forth in this Part and in the New York Safe Boating Instructor Guide;

(4) use another instructor to audit each instructor's class performance and recordkeeping at least once per year and provide the results of the audit to the agency on the provided forms;

(5) ensure that the training facility used by an affiliated instructor meets the definition in this Part.

Section 451.12 Suspension or revocation of instructor or commercial organization certifications.

(a) Denial of applications for initial, renewal or re-issued commercial organization certifications or suspensions or revocations. The agency may deny any application for an initial, a renewal or a re-issued commercial organization certification or suspend or revoke it for any of the following reasons:

(1) the commercial organization or its owner or manager fails to comply with any of the provisions of this Part;

(2) the commercial organization, its owner, manager or any partner, officer or affiliated instructor of the commercial organization is convicted of a felony, misdemeanor or violation except a traffic infraction;

(3) the owner, manager, partner, officer or affiliated instructor of the commercial organization makes a material false statement or conceals a material fact in connection with the application for the commercial organization certification or renewal or refuses to comply with an audit request by the agency;

(4) the commercial organization, its owner, manager or any partner, officer or affiliated instructor of the commercial organization engages in a fraudulent practice;

(5) the owner, manager, partner, officer or affiliated instructor of the commercial organization fails to follow the prescribed procedures for obtaining an instructor certification issued by the agency;

(6) the commercial organization or any owner, manager, partner, officer, affiliated instructor or employee of the commercial organization harasses, threatens or assaults any other instructor, prospective student, student or agency representative.

The commercial organization may request a hearing by the commissioner on the suspension or revocation by certified mail within 10 days as outlined in subdivision (c) of this section.

(b) Immediate suspension. The agency may immediately suspend an instructor's certification or commercial organization's certification on written notice for a period not to exceed 90 days when it has reasonable cause to believe that the health or safety of the public would be jeopardized by allowing an individual to continue to be certified as an instructor or by allowing a commercial organization to continue to be certified to provide the course.

(1) The agency shall provide written notice of the immediate suspension by having it served in person by the agency staff or by an agent or by certified mail return receipt requested to the instructor's or commercial organization's address on the application forms. The notice shall include a brief explanation of the reason for the immediate suspension. The instructor or commercial organization may (within 10 days of receipt of the immediate suspension) send a request for a hearing in writing, return on the suspension to the commissioner by certified mail.

(c) Alternative suspension or revocation. The agency shall provide written notice of intent to suspend or revoke an instructor certification or commercial organization certification on a certain future date by certified mail return receipt requested to the instructor's or commercial organization's address on the application forms. The notice shall include a brief explanation of the basis for the suspension or revocation. The instructor or commercial organization may (within 10 days of receipt of the notice) send a request for a hearing on the suspension or revocation to the commissioner by certified mail. If the instructor or commercial organization does not request a hearing the suspension or revocation shall be final on the date in the agency's notice.

(d) The address for a hearing request is the Office of Parks, Recreation and Historic Preservation, Marine Services Bureau, Agency Building 1, Empire State Plaza, Albany, New York 12238.

(e) Any hearing under this Part may be held by the commissioner's designee in Albany or in one of the agency's park regional headquarters, at the commissioner's discretion.

Section 451.13 Advertising.

(a) In correspondence, print advertising or any other media, an instructor or commercial organization must not:

(1) publish, advertise or intimate that a prospective student or student is guaranteed receipt of a boating safety certificate issued by the agency;

(2) publish, advertise or intimate that a boating safety certificate is a boating license;

(3) state or imply that completion of the course is required to operate a motorboat in New York State;

(4) state or imply that completing the course will reduce insurance rates unless the claim is substantiated and documented to be consistent with the requirements of section 78-a of the Navigation Law;

(5) use or allow the use of any advertisement which would reasonably have the effect of leading people to believe that the instructor or commercial organization is an agent, representative or employee of the agency;

(6) use the New York State Symbol, or the New York State Office of Parks, Recreation and Historic Preservation's logo; and

(7) make any false or misleading claims or statements in any of its advertising or use advertising that includes any unsubstantiated data or claims.

Section 451.14 Violation.

Failure to comply with this Part constitutes a violation under section 73-c of the Navigation Law.

Section 451.15 Severability.

If a court of competent jurisdiction determines that any provision of this Part or its application to any person, commercial organization or circumstance is contrary to law, then that determination shall not affect or impair

the validity of the other provisions of this Part or application of the disputed provision or other provisions to other persons, commercial organizations or circumstances.