

12/10/2010

Proposed Amendments to the USCA Bylaws, Rules and Regulations and Competition Rules.

Dear USCA Officers, Executive Director, Delegates and Chairs:

I submit to you the following proposed amendment to the USCA "ByLaws, Rules and Regulations" for action at the Annual Meeting in January 2011. In order for amendments to USCA ByLaws, Rules and Regulations to be considered, proposals must be distributed to all officers, delegates and chairs of the USCA prior to the Annual Meeting - this amendment resulted from a proposed amendment to USCA's Competition Rules.

Also below are proposed changes to the USCA "Competition Rules". Given the level of detail in these proposals and their importance, I wanted you all to have sufficient time before the annual meeting to review them. I am available via e-mail if there are any questions or comments.

The U.S. Coast Guard was contacted and requested to provide explanation and legal basis for their terms "immediately available PFD", "PFD's must be worn as the manufacturer designed them to be worn", and "PFDs must be in serviceable condition", which are currently in the USCA Competition rules, or are proposed for the USCA Competition Rules. I incorporated the information received from the U.S. Coast Guard into the proposed USCA Competition Rules below. This information will help USCA race sponsors/officials as to what to look for when examining PFDs, and will help USCA delegates decide on the appropriate penalty for not following a USCA safety rule. Deciding in advance on a penalty for not complying with a safety rule will alleviate the pressure on USCA race sponsors/officials from having to make an on-the-spot decision on race day.

Glen F. Green
Safety Committee Chairman
United States Canoe Association
chairman@swanboat.org

United States Canoe Association BYLAWS, RULES AND REGULATIONS 2010 Edition:

Rules and Regulations (Part Two)

Article V. Committees and Duties

Section 2 - Standing Committees

E. Committee duties shall be

ARBITRATION

(2) The duties of this Committee shall be:

b. *delete*: "Rule on the acceptability and required use of safety devices for boats and paddlers."

replace with: **Determine**:

- (1) **was there a whistle present in the boat;**
 - (2) **was there a U.S. Coast Guard approved PFD for each occupant in the boat;**
 - (3) **was the PFD legibly marked with a U.S. Coast Guard approval number;**
 - (4) **if a PFD was worn, was it worn in accordance with manufacturer's recommendations;**
 - (5) **was the PFD in serviceable condition;**
 - (6) **was the PFD immediately available;**
 - (7) **was a PFD being worn, if required by the Race Sponsor or State regulations due to water or weather conditions or time of year?**
- c. Determine the acceptability of the competitor's equipment (**boats and paddles**).

The rationale for this amendment:

· The USCA Arbitration Committee does not have the authority to determine the acceptability of a safety device (e.g. PFD). Acceptability of a PFD is determined after a sample PFD has been

submitted by the manufacturer to a United States Coast Guard “Accepted Independent Material and Equipment Laboratory” to be tested, and the PFD has received certification that it meets USCG requirements <http://cgmix.uscg.mil/eqlabs/>.

- The term “safety devices” was deleted because there are other safety devices (e.g. visual distress signaling devices, transponders, etc.) that are not discussed in the USCA Competition Rules.
- Manufacturer’s recommendations as to the wearing of a PFD are printed on the PFD (e.g. [choose the right type and size, fasten all closures, adjust for snug fit](#)).
- USCG approved PFDs are legibly marked with a U.S. Coast Guard approval number.
- Although the USCG says on its website that a PFD must be “readily accessible” to each person on board a recreational vessel, the term used in the Code of Federal Regulations is “immediately available” [33 CFR 175.21].
- “Boats and paddles” was added to paragraph “c” so as to exclude (PFDs and whistles). The Arbitration Committee does not have the authority to determine acceptability of safety equipment.
- This change is the result of a change made to the COMPETITION RULES Revised 6/23/09, D. Settling Disputes, 2. Arbitration Committee, g. “The committee rules on ...”

United States Canoe Association COMPETITION RULES Revised 6/23/09:

Section II. General Rules at all USCA Sanctioned Races

B. Equipment and Assistance

1. Personal Flotation Devices (PFD): Each competitor must have in his or her possession during the entire race and easily accessible **an immediately available**, a PFD approved by either the U.S. Coast Guard or the State in which the race is being held, if said State has specific rules. **PFDs secured to a boat (e.g. bungee cords or straps) must be able to be released quickly with one hand (securing by duct tape is prohibited)**. All youth paddlers 14 years of age and younger are required to wear a U.S. Coast Guard approved PFD at all times during any race. If water conditions warrant, the race sponsor may require PFDs to be worn by all competitors or to be readily and easily accessible. When PFDs are required to be worn, they must be **adjusted to a snug-fit and** worn as the manufacturer designed them to be worn. All competitors in juvenile and younger **USCA sanctioned races and** events must wear life jackets **PFDs** regardless of age. Local/State regulations that are stricter than USCA will continue to prevail. **PFDs must be in serviceable condition and the appropriate size and fit for the intended user, and legibly marked with its USCG approval number. A PFD is considered to be in serviceable condition if the following conditions are met:**

a. No PFD may exhibit deterioration that could diminish the performance of the PFD, including:

- (1) Metal or plastic hardware used to secure the PFD on the wearer that is broken, deformed, or weakened by corrosion;**
- (2) Webbing or straps used to secure the PFD on the wearer that are ripped, torn, or which have become separated from an attachment point on the PFD; or**
- (3) Any other rotted or deteriorated structural component that fails when tugged.**

b. In addition to meeting the requirements of paragraph “(a)” of this section, no inherently buoyant PFD, including the inherently buoyant components of a hybrid inflatable PFD, may exhibit:

- (1) Rips, tears, or open seams in fabric or coatings, that are large enough to allow the loss of buoyant material;**
- (2) Buoyant material that has become hardened, non-resilient, permanently compressed, waterlogged, oil-soaked, or which shows evidence of fungus or mildew; or**
- (3) Loss of buoyant material or buoyant material that is not securely held in position.**

c. Rules specific to inflatable PFDs:

- (1) Must be USCG approved.**
- (2) Must actually be worn to meet the USCG requirement for having one PFD onboard per person.**
- (3) Shall not be worn by users under age 16.**

- (4) Shall not be worn by non-swimmers.**
- (5) An inflatable belt pack PFD shall be worn in the front at the waist.**
- (6) Must be inspected by the user prior to wearing.**
- (7) In addition to meeting the requirements of paragraph “a.” of this section, an inflatable PFD, including the inflatable components of a hybrid inflatable PFD, must be equipped with:**
 - (a) Except as provided in paragraph “d.” of this section, a properly armed inflation mechanism, complete with a full inflation medium cartridge and all status indicators showing that the inflation mechanism is properly armed (indicator on the inflator must be green).**
 - (b) Inflatable chambers that are all capable of holding air.**
 - (c) Oral inflation tubes that are not blocked, detached, or broken.**
 - (d) A manual inflation lanyard or lever that is not inaccessible, broken, or missing.**
 - (e) Inflator status indicators that are not broken or otherwise non-functional.**
- d. The inflation system of an inflatable PFD need not be armed when the PFD is worn inflated and otherwise meets the requirements of paragraphs “a.” and “c.” of this section.**

The rules regarding PFDs apply to all events at the USCA races *delete*: “including Downriver and ICF Marathon kayaks.”

The rationale for this amendment:

- United States Coast Guard Regulations are Code of Federal Regulations which are Federal Law.
- Although the U.S. Coast Guard says on its website <http://www.uscgboating.org> that a PFD must be “readily accessible” for each person onboard a recreational vessel, the term used in the Code of Federal Regulations is “immediately available” [33 CFR 175.21].
- Code of Federal Regulations 29 CFR 1910.399 defines “readily accessible” as “Capable of being reached quickly for operation, renewal or inspection, without requiring those to whom ready access is requisite to climb over or remove obstacles or to resort to portable ladders, chairs etc.”
- The Chief of Program Operations for the U.S. Coast Guard said in an e-mail: “The determination as to whether a wearable life jacket is readily accessible ultimately falls on the discretion of the officer that is conducting a law enforcement boarding or inspection. There is no legal definition or federal standard for readily accessible, however there is established policy and training guidance available that has been generally accepted and taught as a best practice to aid in the decision making process. Readily accessible means it can be reached in a reasonable amount of time. Examples of life jackets **NOT** being readily accessible are those located in a locked locker, those stored under an anchor, or still contained in its original shipping cover. One way to alleviate this issue of whether or not the life jacket is readily accessible is to wear it.”
- In “serviceable condition”, and “the appropriate size and fit for the intended user, and “legibly marked with its approval number” are terms used Code of Federal Regulations, Title 33 CFR 175.21.
- Proposed paragraphs a. through d. above are directly from the Code of Federal Regulations Title 33 CFR Part 175.23. By listing these regulations in the USCA Competition rules, USCA Race and Event Sponsors, and competitors will know exactly what “a PFD in serviceable condition” means. Not many race officials and paddlers have access to a copy of the Code of Federal Regulations to be able to refer to these requirements if they come across a PFD in questionable shape.
- “PFDs secured to a boat must be able to be released quickly with one hand” is how the U.S. Coast Guard describes accessing a PFD. There have been instances where competitors duct tape PFDs to the thwarts of their canoe.
- PFDs that are not adjusted to a snug-fit can ride up and choke the wearer once the person is in the water. “Adjusted to a snug-fit” is purposely being highlighted because many competitors paddle with a loose fitting PFD which is not being “worn as the manufacturer designed them to be worn.”
- USCG regulations require that inflatable PFDs must be in good condition (including the inflating device, air bladder, oral inflation tube, and lanyard), must have a full cylinder, all status indicators on the inflator must be green, and must be inspected by the user prior to wearing [33 CFR 175.23].
- An inflatable PFD must actually be worn to meet the USCG carriage requirement for having one PFD onboard per person.

- USCG regulations state that inflatable PFDs shall **NOT** be worn by users under age 16.
- USCG recommends that inflatable PFDs **NOT** be worn by non-swimmers since they may not be able to keep their head above water long enough to use the manual mode or the oral tube for refilling the bladder.
- Belt pack PFDs must be in the front of a person's torso to inflate properly when the lanyard is pulled, **NOT** worn on the fanny as surfski and outrigger canoe competitors often do to keep from being hindered in their forward lean.
- Delete "including Downriver and ICF Marathon kayaks", because the specific inclusion of two types of kayaks implies that maybe the rules don't apply to certain other type of kayaks.

 United States Canoe Association COMPETITION RULES Revised 6/23/09:

Section II. General Rules at all USCA Sanctioned Races

B. Equipment and Assistance

4. Weights and Flotation may be added to canoes or kayaks in order to meet requirements of minimum weight and buoyancy. The materials used may be at the discretion of the competitor. All weights and flotation must be securely fastened or permanently built into the canoe or kayak. **PFDs used to comply with U.S. Coast Guard and State requirements for having one PFD onboard per person, may not be used as part of the "flotation" added to canoes or kayaks in order to meet requirements of minimum buoyancy. A PFD must be immediately available to each occupant of a boat and not fastened in such a manner to the boat that it cannot be released quickly with one hand.**

Securely Fastened: When a canoe or kayak is turned upside down or submerged, the weight or flotation must stay in place.

The rationale for this amendment:

- United States Coast Guard and State regulations require that PFDs of the type specified in 33 CFR 175.15 be immediately available to occupants of a recreational boat as per 33 CFR 175.21.
- "PFDs secured to a boat must be able to be released quickly with one hand" is stated by the USCG. There have been instances where competitors duct tape PFDs to the thwarts of their canoe, and these are the only PFDs onboard the canoe.
- There might be some argument that a PFD could be snapped to a thwart of a canoe and could be released quickly with one hand, and therefore could be considered securely fastened to the canoe and pass as boat flotation, however, this would be very difficult to do in a kayak, so allowing canoes to use a PFD for boat flotation and not a kayak would lead to confusion and complaints of unfairness from kayakers; therefore recommend a ban across-the-board of not allowing PFDs to be "securely fastened" to a boat and used as flotation to meet the buoyancy requirements of this section.

 United States Canoe Association COMPETITION RULES Revised 6/23/09:

Section II. General Rules at all USCA Sanctioned Races

B. Equipment and Assistance

6. One whistle **capable of producing a loud sound** must be carried in each boat, either securely affixed to a life vest **PFD** or the boat in a manner which allows quick access in a personal emergency. **This is to comply with U.S. Coast Guard navigation regulations which require that all boats must carry a sound producing device (whistle, horn, siren, etc.) capable of a 4-second blast audible for 1/2 mile for distress calls and for signaling.**

The rationale for this amendment:

- To match USCA verbiage with U.S. Coast Guard verbiage (i.e. "all boats must carry a sound producing device").

- To inform competitors and USCA race and event sponsors who read the Competition Rules that this whistle must be a loud whistle, not just a toy whistle.
- To impart to the competitors and USCA race and event sponsors that there is a safety purpose for carrying a sounding device in their boat both for distress calls and for signaling.

 United States Canoe Association COMPETITION RULES Revised 6/23/09:
 Section VI. National Marathon Championship Race Results
 C. Nationals Race Management and Conduct

6. Safety Equipment: All competitors may have their PFDs and whistles inspected by USCA race officials before the race start. If the boat is found to have a missing or damaged PFD or whistle, or if the PFD is not U.S. Coast Guard approved; the competitor(s) will be given the opportunity to make the necessary repairs or replacements. ALL canoes and kayaks are to be checked for PFDs and a whistle at the finish immediately after any USCA Marathon National Marathon Championship race to ensure that there is at least one safety whistle in the boat and a U.S. Coast Guard approved PFD for each occupant, that the PFD is immediately available, and the PFD is serviceable condition.

The rationale for this amendment:

- PFDs and whistles are “safety equipment” required in each boat at the USCA Marathon Nationals as per U.S. Coast Guard regulations (Code of Federal Regulations).
- **For future inclusion in USCA Competition Rules:** A visual distress signal is required “safety equipment” in each boat from dusk to dawn. Since the USCA Nationals are not held at night, a signaling device rule is not needed. There is pending correspondence with the USCG to provide clarification of the rules on visual distress signals pertaining to canoes, kayaks, surfskis, outrigger canoes, and paddle boards which will then be incorporated into the USCA Competition Rules at a future date so that USCA Race/Event Sponsors who do have races or activities which extend into darkness will know what is required under the law.

 United States Canoe Association COMPETITION RULES Revised 6/23/09:
 D. Settling Disputes
 2. Arbitration Committee:

g. *delete:* “The committee rules on the acceptability and required use of safety devices for boats and paddlers.” *replace with:* **The committee rules on:**

- (1) **was there a whistle present in the boat;**
- (2) **was there a U.S. Coast Guard approved PFD for each occupant in the boat;**
- (3) **was the PFD legibly marked with a U.S. Coast Guard approval number;**
- (4) **if a PFD was worn, was it worn in accordance with manufacturer’s recommendations;**
- (5) **was the PFD in serviceable condition;**
- (6) **was the PFD immediately available;**
- (7) **was a PFD being worn, if required by the Race Sponsor or State regulations due to water or weather conditions or time of year?**

h. The committee determines the acceptability of the competitor’s equipment (**boats and paddles**).

The rationale for this amendment:

- The USCA Arbitration Committee does not have the authority to determine the acceptability of a safety device (e.g. PFD). Acceptability of a PFD is determined after a sample PFD has been submitted by the manufacturer to a United States Coast Guard “Accepted Independent Material and Equipment Laboratory” to be tested, and the PFD has received certification that it meets USCG requirements <http://cgmix.uscg.mil/eqlabs/>.
- The responsibility of the USCA Arbitration Committee is to determine:

- (a) was there a whistle present in the boat;
 - (b) was there a PFD for each occupant in the boat;
 - (c) was the PFD being carried or worn approved by the U.S. Coast Guard (USCG approved PFDs are legibly marked with a U.S. Coast Guard approval number);
 - (d) was the PFD being worn in accordance with the manufacturer's requirements including proper sizing as stated on the PFD?
 - (e) was the PFD in serviceable condition as defined in the Section II. B.1 or the USCA Competition Rules;
 - (f) was the PFD immediately available so that it could have been quickly obtained with one hand;
 - (g) if the PFD was required by to worn by the USCA Race Sponsor or State regulations (due to water conditions, weather conditions, or time of year), was it actually worn?
- "Boats and paddles" was added to paragraph "h" so as to exclude (PFDs and whistles). The Arbitration Committee does not have the authority to determine acceptability of safety equipment.

 United States Canoe Association COMPETITION RULES Revised 6/23/09:

Section II. General Rules at all USCA Sanctioned Races

B. Equipment and Assistance

10. Penalty for not complying with a USCA Safety Rule: If a U.S. Coast Guard approved Personal Flotation Device is not carried (or worn if required) during a USCA sanctioned race or event by occupants in a boat, those occupants shall be disqualified from the race or event. Any such disqualification will be referred to the Arbitration Committee at the USCA Marathon Nationals, or to the USCA Race or Event Sponsor at all other USCA sanctioned races or events, for a judgment as to the accuracy of the facts.

The rationale for this amendment:

· At past USCA Nationals there has been controversy on the penalties doled out for safety equipment infractions (e.g. PFDs and Safety Whistles). It was felt that the issuance of these penalties was arbitrary. A way to deal with this is to decide the penalty prior to the event and publicize this information ([including posting on the USCA website](#)), similar to what is currently being done if a boat is not measured and inspected at the finish immediately after the race at the USCA Nationals (USCA Competition Rules VI.C.5. "Failure to comply will result in disqualification").

· The carrying of a U.S. Coast Guard approved PFD for each occupant of a boat and the carrying of a sounding device (e.g. whistle) are U.S. Coast Guard regulations (Code of Federal Regulations) and State law. Violation of Federal and State laws pertaining to PFDs are fineable offenses. The following is a list of the State penalties as of 2007 that are assessed if a boat is found not to be carrying a USCG approved PFD for each occupant: AL \$25, AK \$100, AR \$100-\$250, AZ misdemeanor, CA \$150 max, CO \$50, CT \$75, DC \$50, DE \$25, FL \$50-\$80, GA misdemeanor, HI \$50-\$1000, IA \$76.40, ID \$84, IL \$75-\$1000, IN \$500 max, KS \$500 max, KY \$50 + court cost, LA criminal, MA \$50, MD sliding scale, ME \$100, MI \$500 max, MN max \$1,000 and/or 90 days in jail, MS \$125, NC \$135, ND misdemeanor, NH \$60 max, NJ \$25-\$100 + court cost, NM \$50-\$500, NY \$25-\$100, NV misdemeanor, OH misdemeanor, OK \$201, OR \$237, PA \$50, RI \$100, SC \$25-\$500, SD max \$100 and 30 days in jail, TN \$50 max, TX \$25-\$500, UT max \$100 or 6 months in jail, VA \$250 max, VT \$84 max, WA \$87, WI \$148.20, WV \$188, WY \$110.

· Because not carrying a PFD for each occupant of a boat is a violation of law, the penalty for a competitor not complying with carrying a PFD in their boat at the USCA Nationals should be severe. A severe penalty that doesn't involve the issuance of a fine would be "disqualification". The setting of a significant penalty is necessary since compliance with the law is a requirement for being a 501(c)(3) organization. See: IRS Publication 4220 (Rev. 8-2009).

· While it is true that a Federal or State compliance officer could issue a warning rather than a ticket, it is doubtful that a compliance officer will just issue a warning for a missing PFD or missing whistle (it is either missing or it isn't), similar to if a policeman were to ask to see your motor vehicle

license and registration, and you fail to produce it – that is a fineable offense, rarely would a warning be issued.

- This will show that the USCA is serious about safety in their races and events and a leader in the sport.

- Several USCA members have suggested that the same penalty assessed for a safety infraction at the USCA Nationals be applied to all USCA sponsored races and events, not left to the race organizer to determine what the penalty should be. If left to a race organizer the penalty could be nothing or essentially nothing in which case why have a safety rule?

- A PFD not “immediately available”, a PFD “not being worn as the manufacturer designed them to be worn”, and a PFD “that is not in serviceable condition” needs to have a penalties established in this paragraph 10 by the USCA delegates. Violations of these requirements are as not as clear cut as not having a PFD or not having a whistle. The USCA delegates need to decide ahead of time what penalties should be assessed for not complying with these U.S. Coast Guard Requirements. Saying that it is not the purview of the USCA to decide on penalties for violations of law just makes it hard on USCA Race and Event Sponsors if they run across instances of noncompliance. Planning ahead and establishing in advance what the penalty is for an infraction of a USCA safety rule will alleviate the pressure on USCA race sponsors/officials from having to make an on-the-spot decision on race day.

- Some have asked if there could be a forgiveness clause in the USCA PFD rules in case a boat was to capsize and a PFD was lost. I asked the U.S. Coast Guard that question. Their response was that you must have a PFD for each occupant in a watercraft, and that wearable lifejackets must be readily accessible and available to be put on in the event of a capsize, which means that if a PFD is not being worn it must be the first thing reached for in the event of a capsize, before grabbing a paddle or the boat. The USCG representative said, *“If the PFD is ‘lost’ during an event and the individual is out of compliance, the responsibility is 100% on the shoulders of the paddler. If there is a chance that a PFD will be lost after capsizing, then it would have to be worn to be considered readily accessible.”*

See: <http://tinyurl.com/24cjh5g>

- Note: Code of Federal Regulations 33 CFR 175.17(c) “Racing shells, rowing sculls, racing canoes and racing kayaks are exempted from the requirements for carriage of any Type PFD required under § Section 175.15”. However, States sometimes enhance USCG regulations [33 CFR 175.5] and require the carrying of PFDs whether-or-not it is a racing boat; plus some States require the wearing of PFDs during certain times of the year (cold weather months). Current USCA Competition Rules require the carrying of PFDs for all boats participating in USCA Sanctioned Races and Events.

For your information, below is an e-mail I received from the U.S. Coast Guard:

-----Original Message-----

From: John.M.Malatak@uscg.mil [<mailto:John.M.Malatak@uscg.mil>]

Sent: Friday, December 10, 2010 12:57 PM

To: chairman@swanboat.org

Cc: Rizzo, Mark CAPT; Hoedt, Jeff; Baron, Michael ; Carro, Joseph; Burgess, William

Subject: USCG GUARD APPROVED PFDs - Questions to ask the United States Coast Guard

Mr. Green (Glen):

Answers have been provided to the specific questions that were posed to the U.S. Coast Guard in your e-mail. We recognize and applaud the efforts of the United States Canoe Association's (USCA) intent to keep its competitors safe during USCA sanctioned events, and we also appreciate that they want race officials to have the requisite knowledge to articulate their decisions. It is noted that under 33 CFR 175 vessels of this type are specifically exempted from the requirement to carry life jackets while practicing for, or in, competition.

We hope that you find the information attached helpful and that it answers your questions appropriately. If we can assist you and/or the USCA further, please do not hesitate to contact us.

Thank you for your continued efforts to make recreational boating both enjoyable and safe.

Regards,

John

John M. Malatak
Chief, Program Operations (CG-54222)
U. S. Coast Guard
Boating Safety Division
(202) 372-1070
www.uscgboating.org <<http://www.uscgboating.org>>