

FINAL REGULATIONS - CHAPTER P-3 - RIVER OUTFITTERS

304 - PERSONAL FLOTATION DEVICES

1. River outfitters shall provide commercial passengers participating in regulated trips personal flotation devices (PFDs) as follows:
 - a. PFDs shall be in good and serviceable condition, of the proper size and fit for the intended wearer and be used in accordance with the manufacturer's label. PFDs shall have 70 Newtons (NT) of buoyancy, be adjustable, and be capable of retaining the wearer in swift water conditions. PFDs shall be U.S. Coast Guard approved and inherently buoyant. Hybrid and inflatable PFDs are unacceptable. PFDs shall be wearable, meaning a PFD that is intended to be worn or otherwise attached to the body in accordance with the manufacturer's label. Or,
 - b. PFDs must be U.S. Coast Guard Type II, Type III, or Type V, provided the PFD is a vest style design. CPW incorporates the PFD type codes promulgated by the U.S. Coast Guard and codified in the October 21, 2014 version of 46 CFR § 160 by reference, but not subsequent amendments. Such materials are available through the U.S. Coast Guard, Office of Governmental & Public Affairs (CG-0922), 2703 Martin Luther King Jr. Ave. SE, Washington, D.C. 20593.
 - (1) All Type III PFDs ~~that are not labeled for youth or child~~ must have a minimum of 2 adjustable straps on the side, 1 adjustable waist strap and adjustable shoulder straps, capable of retaining the wearer in swift water conditions. Type III PFDs ~~that are not labeled for youth or child must, according to the manufacturer's label,~~ must be intended for paddling or kayaking use by the U.S. Coast Guard and be labeled accordingly.
 - c. All child and ~~youth infant~~ PFDs must be a vest style design equipped with an additional flotation collar and ~~all child PFDs~~ must have a crotch strap worn in accordance with the manufacturer's label, including previous Type II, Type III, and Type V PFDs.
2. Each guide shall require that every commercial passenger wears and has tied or otherwise securely fastened his or her assigned personal flotation device at all times while on or in a river, except during regulated trips operating on designated flatwater where passengers thirteen years of age or older may be permitted to remove or loosen the personal flotation device at the discretion of the guide or trip leader.
3. Except on designated flatwater, every river outfitter, guide, guide in training, guide instructor, and trip leader shall at all times while participating in a regulated trip or guide training trip wear a PFD meeting the specifications listed in #304-1 and in the manner specified in #304-2.
4. Designated flatwater means:
 - a. The Colorado River- from the Loma boat launch in Mesa County to the Utah/Colorado state line; and
 - b. The Gunnison River in Delta County -from the Smith Fork to the North Fork.
 - c. The Yampa River from the Hayden Station Pump Station in Routt County to the Juniper Canyon Access Site in Mofatt County and from the Maybell Bridge at Highway 40 in Mofatt County to the Cross Mountain River Access Site in Mofatt County.

5. The trip leader shall ensure that at least one spare U.S. Coast Guard approved personal flotation device as specified in # 304-1 is carried per regulated trip that includes one or more rafts, dories, or motorboats. All required spare personal flotation devices shall be in good and serviceable condition.

Basis and Purpose:

When the regulations were updated in 2022 to meet the updated definition of a personal floatation device, CPW accidentally began requiring an extra floatation collar on all Youth (30-50lbs) PFDs and did not regulate Infant (0-30lbs) PFDs. These changes did not meet the goal of allowing any PFDs that outfitters had previously used to still be legal and not require the outfitters to purchase new PFDs. This change is a cleanup to allow youth PFDs with no floatation collar to meet the previous goal and reincorporate requirements for infant PFDs.

The statements of basis and purpose for these regulations can be obtained from the Colorado Division of Parks and Wildlife, Office of the Regulations Manager by emailing dnr_cpw_planning@state.co.us. The statement of basis and purpose is not available at the Division of Parks and Wildlife headquarters due to the closure of these facilities to the public in light of the COVID-19 pandemic.

The primary statutory authority for these regulations can be found in § 24-4-103, C.R.S., and the state Parks Act, §§ 33-10-101 to 33-33-113, C.R.S., and specifically including, but not limited to: §§ 33-10-106 and 33-10-107, C.R.S.

EFFECTIVE DATE - THESE REGULATIONS SHALL BECOME EFFECTIVE SEPTEMBER 1, 2023 AND SHALL REMAIN IN FULL FORCE AND EFFECT UNTIL REPEALED, AMENDED OR SUPERSEDED.

APPROVED AND ADOPTED BY THE PARKS AND WILDLIFE COMMISSION OF THE STATE OF COLORADO THIS 20TH DAY OF JULY, 2023.

**APPROVED:
Dallas May
Chair**

**ATTEST:
Karen Bailey
Secretary**

ISSUES SUBMITTAL FORM

Date:

07/07/2023

ISSUE: Should the River Outfitter regulation #304 passed in 2022 be cleaned up?

DISCUSSION (FACTS AND FIGURES, EXPLANATION OF ISSUE):

In 2014, the US Coast Guard changed the definition of a personal flotation device (PFD) from Type II, II, IV, V, or I to wearable or throwable with designations of performance level by newtons of buoyancy. However, the new PFD labeling guidance was not released until 2017. The USCG allowed PFD manufacturers to sell the remainder of their PFDs that were printed with the old labeling but required them to start utilizing the new label standard on all new PFDs.

As the licensing agency and one of the permitting agencies for river outfitters that operate within the state, CPW sets and maintains qualification standards for river guides, trip leaders and guide instructors; requirements for equipment used on regulated river trips; and administrative requirements regarding the issuance of a River Outfitter License (ROL), such as the application process, insurance requirements, etc. The PFD language within river outfitter licensing regulations is out of date and needs to be modified. The modification needs to capture jackets that still meet the old standard (types) but also reflect the current PFD (wearable) language. CPW wants to ensure our regulation language allows us to keep up with innovation.

To draft these regulation changes a number of discussions with state and federal agencies that deal with commercial swift water boating enforcement were conducted.

When the regulations were updated in 2022, CPW accidentally began requiring an extra floatation collar on all Youth (30-50lbs) PFDs and did not regulate Infant (0-30lbs) PFDs. These changes did not meet the goal of allowing any PFDs that outfitters had previously used to still be legal and not require the outfitters to purchase new PFDs. This change is a cleanup to allow youth PFDs with no floatation collar to meet the previous goal and reincorporate requirements for infant PFDs.

STATE LAW REQUIRES CPW TO SOLICIT INPUT FROM STAKEHOLDERS THAT MAY BE AFFECTED POSITIVELY OR NEGATIVELY BY THE PROPOSED RULES. THE FOLLOWING STAKEHOLDERS HAVE BEEN ADVISED OF AND INVITED TO PROVIDE INPUT ON THE REGULATORY CHANGES PROPOSED IN THIS ISSUE PAPER:

***IT IS ASSUMED THAT ALL NECESSARY INTERNAL PARTIES HAVE BEEN NOTIFIED*.**

ROL advisory Committee (2 Outfitters and a CPW staff member)-
CROA (Colorado River Outfitters Association)-
AROA (Arkansas River Outfitters Association)-
All ROL holders
BLM, Forest Service, and NPS

ALTERNATIVES: (POSSIBLE OUTCOMES or POSSIBLE REGULATIONS):

1. ***Preferred Alternative*: Changing the language of regulation #304 to the following:
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i. All Type III PFDs ~~that are not labeled for youth or child~~ must have a minimum of 2 adjustable straps on the side, 1 adjustable waist strap and adjustable shoulder straps, capable of retaining the wearer in swift water conditions. Type III PFDs ~~that are not labeled for youth or child must, according to the manufacturer's label must~~ be intended for paddling or kayaking ~~use by the U.S. Coast Guard and be labeled accordingly.~~

c. All child ~~and youth and infant~~ PFDs must be a vest style design equipped with an additional flotation collar and ~~all child PFDs~~ must have a crotch strap worn in accordance with the manufacturer's label, including previous Type II, Type III, and Type V PFDs.

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2. NO CHANGE

Issue Raised by:	Grant Brown(Boating Safety & Registrations Program Manger), Michael Haskins (Swift Water Investigator)	
Author of the issue paper (if different than person raising the issue):		
CC:		
APPROVED FOR FURTHER CONSIDERATION BY:		Heather Dugan

REQUIRES NEW SPACE IN THE BROCHURE?	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
ARE ADEQUATE STAFF AND FUNDING RESOURCES AVAILABLE TO IMPLEMENT?	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
REGION, BRANCH, OR SECTION LEADING IMPLEMENTATION	Field Services
RECOMMENDED FOR CONSENT AGENDA?	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO