

## CHAPTER 4-2 WATERCRAFT REGISTRATION

### 4-2-1 **Definitions**

Unless the context clearly requires otherwise, the definitions in this section apply throughout this Chapter.

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

(b) "Owner" means a person who has a lawful right to possession of a vessel by purchase, exchange, gift, lease, inheritance, or legal action whether or not the vessel is subject to a security interest.

(c) "Dealer" means a person, partnership, association, or corporation engaged in the business of selling vessels at wholesale or retail on the Reservation or to the Tribes.

(d) "Department" means the Purchasing Department of the Tribes.

(e) "Reservation" means the Colville Indian Reservation including all waters of Lake Roosevelt, Rufus Woods Lake and the Okanogan River located therein.

(f) "Tribes" means the Confederated Tribes of the Colville Reservation.

### 4-2-2 **Registration and Display of Registration Number and Decal Prerequisite to Ownership or Operation of Vessel—Exceptions**

No vessel shall be operated on the waters of the Reservation unless the vessel has been registered and displays a registration number and a valid decal in accordance with this Chapter, except that a vessel which has or is required to have a valid marine document as a vessel of the United States is only required to display a valid decal.

### 4-2-3 **Registration of Vessels Numbered Under the Federal Boat Safety Act**

(a) A vessel numbered under the Federal Boat Safety Act or under any state plan approved by the United States Coast Guard and operated on the Reservation need not register under this Chapter. Provided, all vessels owned by the Tribes as defined in section 4-2-4 shall be registered and numbered exclusively under this Chapter.

(b) As used in this section, "Federal Boat Safety" means the Federal Boat Safety Act of 1971 (85 Stat. 213; 46 U.S.C. 1451 et seq.).

### 4-2-4 **Vessel Registration Required—Exceptions**

Notwithstanding any other part or provision of this Chapter, any vessel that is required to be numbered and registered under the Federal Boat Safety Act that is owned by the Tribes, any department or agency of the Tribes or any enterprise chartered under or by the Tribes and operated on the Reservation shall be numbered and registered exclusively under the provisions of this Chapter, except for the following:

(a) Vessels used as a ship's lifeboat;

(b) Vessels equipped with propulsion machinery of less than ten horsepower that:

(1) Are owned by the owner of a vessel for which a valid vessel number has been issued;

(2) Display the number of that numbered vessel followed by the suffix "1" in the manner prescribed by the Department; and

(3) Are used as a tender for direct transportation between that vessel and the shore and for no other purpose.

(c) Vessels under sixteen (16) feet in overall length which have no propulsion machinery of any type or which are not used on waters subject to the jurisdiction of the United States and are powered propulsion machinery of ten or less horsepower;

(d) Vessels with no propulsion machinery of any type for which the primary mode or propulsion is human power; and

(e) Vessels primarily engaged in commerce which have or are required to have a valid marine document as a vessel of the United States.

**4-2-5 Issuance of Registration—Agents—Deposit of Fees in General Fund**

The Tribes shall provide for the issuance of vessel registrations and may appoint agents for collecting fees and issuing registration numbers and decals. Fees for vessel registrations collected shall be deposited in the General Fund, and used to maintain the numbering and registration program provided under this Chapter, water safety, and protection of water and related resources.

**4-2-6 Application—Registration Fee and Excise Tax—Registration Number and Decal— Registration Periods—Renewals—Transfer of Registrations**

(a) Application for a vessel registration shall be made to the Department or its authorized agent in the manner and upon forms prescribed by the Department. The application shall state the name and address of each owner of the vessel and such other information as may be required by the Department, shall be signed by the owner or owner's representative, and shall be accompanied by a vessel registration fee of ten dollars (\$10.00) per year and any excise tax that may be imposed by tribal law.

(b) Upon receipt of the application and the registration fee, the Department shall assign a registration number and issue a decal for each vessel. The registration number and decal shall be issued and affixed to the vessel in a manner prescribed by the Department consistent with the standard numbering system for vessels set forth in volume 33, part 174, of the Code of Federal Regulations. A valid decal affixed as prescribed shall indicate compliance with the annual registration requirements under this Chapter. In all respects the numbering and registration program established under this Chapter shall comply with applicable federal law and regulations.

(c) The vessel registration and decals are valid for a period of one year, except that the Department may extend or diminish vessel registration periods, and the decals therefor, for the purpose of staggered renewal periods. For registration periods of more or less than one year, the Department may collect prorated annual registration fees and excise taxes based upon the number of months in the registration period. Vessel registrations are renewable every year in a manner prescribed by the Department upon payment of the vessel registration fee and excise tax, if any. Upon renewing a vessel registration, the Department shall issue a new decal to be affixed as prescribed by the Department.

(d) A person acquiring a new vessel which is subject to registration under this Chapter or a vessel already validly registered under this Chapter shall, within fifteen (15) days of the acquisition or purchase of the vessel, apply to the Department or its authorized agent for transfer of the vessel registration, and the application shall be accompanied by a transfer fee of three dollars (\$3.00).

**4-2-7 Registration of Dealers—Fees**

(a) Each dealer of vessels who wishes to sell to the Tribes vessels to be used on the Reservation shall register with the Department in the manner and upon forms prescribed by the Department. Upon receipt of a dealer's application for registration and the registration fee provided in subsection (b) of this section, the dealer shall be registered and a registration number assigned. Provided, the obtaining of an Indian Trader's License shall comply with the requirements of this subsection if the fee is paid as provided under subsection (b) below.

(b) The registration fee for dealers shall be thirty-five dollars (\$35.00) per year, and the fee shall cover all vessels owned by the dealer for sale and not rented on a regular commercial basis by the dealer.

(c) Dealer registration numbers are nontransferable.

(d) Section 4-2-2 does not apply to any dealer or employee or prospective customer of the dealer with respect to any vessel covered by the dealer's registration number and used for a business purpose of the dealer, such as a demonstration vessel or for purposes of testing or making repairs.

**4-2-8**

**Certificate of Titles**

(a) The Department shall provide for the issuance of vessel certificates of title for all vessels subject to registration under this Chapter. Applications for certificates may be made through the agents appointed under section 4-2-5 or to the Department. The fee for a vessel certificate of title is eight dollars (\$8.00). Fees for vessel certificates of title shall be deposited in the General Fund. Security interests in vessels subject to the requirements of this Chapter and attaching after September 1, 1987, shall be perfected only by indication upon the vessel's title certificate. The provisions of tribal Chapters relating to motor vehicle certificates of registration, title, certificate issuance, ownership transfer, and perfection of security interests, and other provisions which may be applied to vessels subject to this Chapter, may be so applied by rule of the Department if they are not inconsistent with this Chapter.

(b) Whenever a vessel is to be registered for the first time as required by this Chapter, except for a vessel having a valid marine document as a vessel of the United States, application shall be made at the same time for a certificate of title. Any person who purchases or otherwise obtains majority ownership of any vessel subject to the provisions of this Chapter, except for a vessel having a valid marine document as a vessel of the United States, shall within fifteen (15) days thereof apply for a new certificate of title which shows the vessel's change of ownership.

(c) Security interests may be released or acted upon as provided by the law under which they arose or were perfected. No new security interest or renewal or extension of an existing security interest is effective except as provided under the terms of this Chapter. Provided, nothing in this section or Chapter is or is it intended to waive the sovereign immunity of the Tribes, or to waive the sovereign immunity of any tribal department or agency of the Tribes, or enterprise chartered by the Tribes under Tribal law. Any waiver of sovereign immunity must be expressly contained in the document(s) relating to a particular transaction or event, and must in addition comply with all requirements of any applicable Tribal or federal law or rule.

(d) Notice shall be given to the issuing authority by the owner indicated on the certificate of registration within fifteen (15) days of the occurrence of any of the following: Transfer of any part or all of the ownership of a vessel registered under this Chapter; any change of address of owner; destruction, loss, abandonment, theft, or recovery of the vessel; or loss or destruction of a valid certificate of registration on the vessel.

**4-2-9**

**Application for Title Certificate—Oath By Owner**

Each application for a title certificate shall require the person to be designated as the registered owner to swear under penalty of the perjury laws of the Tribes, that he/she is the owner or an authorized agent of the owner of the vessel, and that it is free of any claim of lien, mortgage, conditional sale, or other security interest or any person except the person or persons set forth in the application as secured parties.

**4-2-10**

**Duplicate Certificates—Replacement Decals—Surrender**

(a) If a certificate of title, a certificate of registration, or a pair of decals is lost, stolen, mutilated, or destroyed or become illegible, the first priority secured party, the owner or legal representative of the owner named in the certificate, as shown by the records of the Department as provided herein, shall promptly apply for and may obtain a duplicate certificate or replacement decals upon payment of three dollars (\$3.00) and furnishing information satisfactory to the Department.

(1) An application for a duplicate certificate of title shall be accompanied by an affidavit of loss or destruction in a form approved by the Department and signed by the first secured party or, if none, the owner or legal representative of the owner.

(2) An application for a duplicate certificate of registration or replacement decals shall be accompanied by an affidavit of loss or destruction in a form approved by the Department and signed by the owner or legal representative of the owner.

(b) The duplicate certificate of title or registration shall contain the legend, "This is a duplicate certificate". It shall be mailed to the first priority secured party named in it or, if none, to the owner.

(c) A person recovering an original certificate of title, certificate of registration, or decal for which a duplicate or replacement has been issued shall promptly surrender the original to the Department.

**4-2-11 Duty of Operator Involved in Collision, Accident, or Other Casualty—Immunity from Liability of Person Rendering Assistance**

(a) The operator of a vessel involved in a collision, accident, or other casualty, to the extent the operator can do so without serious danger to the operator's own vessel or persons aboard, shall render all practical and necessary assistance to persons affected by the collision, accident, or casualty to save them from danger caused by the incident. Under no circumstances may the rendering of assistance or other compliance with this section be evidence of the liability of such operator for the collision, accident, or casualty. The operator shall also give his or her name, address, and the identification of the operator's vessel to the Department, appropriate state officials, and the National Park Service if the accident, collision or other casualty occurred on Lake Roosevelt and any person injured and to the owner of any property damaged: Provided, that this requirement shall not apply to operators of vessels when they are participating in an organized competitive event covered by a permit issued by the United States Coast Guard. These duties are in addition to any duties otherwise imposed by law.

(b) Any person who complies with subsection (a) of this section or who gratuitously and in good faith renders assistance at the scene of a vessel collision, accident, or other casualty, without objection of the person assisted, shall not be held liable for any civil damages as a result of the rendering of assistance or for any act or omission in providing or arranging salvage, towage, medical treatment, or other assistance, where the assisting person acts as any reasonably prudent person would have acted under the same or similar circumstances.

**4-2-12 Inspection or Registration—Violation of Chapter**

Any person charged with the enforcement of this Chapter may request for inspection the certificate of registration from any vessel owner or operator to ascertain the legal and registered ownership of such vessel operated in the Reservation waters. Failure to provide such certificate for inspection upon the request of any person charged with enforcement of this Chapter constitutes a violation of this Chapter and shall subject the person requested to produce such document to the civil penalties provided by section 4-2-12.

**4-2-13 Use of Vessel in Negligent Manner or While Under the Influence of Alcohol or Drug Prohibited—Penalty**

(a) It shall be a violation of this Chapter for any person to operate a vessel in a negligent manner or under the influence of intoxicating liquor or any drug. For the purpose of this section, to "operate in a negligent manner" shall be construed to mean the operation of a vessel in such manner as to endanger or be likely to endanger any persons or property.

(b) A person is guilty of operating a vessel while under the influence of intoxicating liquor or any drug if the person operates a vessel within the Reservation while:

(1) The person has 0.10 grams or more of alcohol per two hundred ten liters of breath, as shown by analysis of the person's breath, blood, or other bodily substance; or

(2) The person is under the influence of or affected by intoxicating liquor or any drug; or

(3) The person is under the combined influence of or affected by intoxicating liquor and any drug.

The fact that any person charged with a violation of this section is or has been entitled to use such drug under the laws of any state or the Tribes shall not constitute a defense against any charge of violating this section. A person cited under this subsection may upon request be given a breath test for blood alcohol or may request to have a blood sample taken for blood alcohol analysis. An arresting officer shall administer field sobriety tests when circumstances permit.

(c) For the purposes of this section, “vessel” means any watercraft used or capable of being used as a means of transportation on the water.

(d) For the purpose of this section, “vessel operator” means a person who is in actual physical control of a vessel.

(e) Any person violating this section is subject to the penalties set out under section 4-2-12. In addition, the court may order the defendant to pay restitution for any damages or injuries resulting from the offense.

**4-2-14**

**Rule-Making Authority**

The Department may adopt rules to implement this Chapter.

**4-2-15**

**Penalties—Deposition of Moneys Collected—Enforcement Authority**

(a) A violation of this Chapter, and the rules adopted by the Department pursuant this Chapter is a Class B Offense punishable as provided in the Law and Order Code.

(b) Where a person violating this Chapter or any rule adopted by the Department pursuant to this Chapter is a non-Indian not subject to the criminal jurisdiction of the Tribes, that person shall be subject to:

(1) The civil procedures set out in the Fish and Game Chapter of the Law and Order Code; or

(2) Where the law enforcement officer has reasonable grounds to believe that the continued operation of a vessel in violation of this Chapter constitutes a threat to the safety of other vessels, or the resources of the Tribes, an immediate order to cease operation of a vessel on the water or the Reservation until the person can operate the vessel in a safe manner;

(3) Permanent exclusion from the Reservation as provided under Chapter 3-2 of the Tribes' Law and Order Code;

(4) Arrest under applicable federal law; or

(5) All of the above;

(6) Where appropriate, a law enforcement officer may escort a person in violation of this Chapter or rules adopted under this Chapter off the waters of the Reservation.

(c) Where a person continues to operate or refuses to refrain from operating a vessel on the waters of the Reservation in a manner so that other vessels, Reservation resources or the operator is in continued danger, and a law enforcement officer has requested that the operator ceases operation in a dangerous manner, a law enforcement officer may in addition to any other powers he/she may have seize the vessel so that it cannot be operated on the waters of the Reservation in a dangerous manner. The vessel shall be returned to the operator if the operator leaves the waters or the Reservation, or at such times as it can be operated in a safe manner. In addition, the vessel shall be returned to any other person on the vessel capable of operating the vessel in a safe manner where such person agrees to take responsibility for the vessel operation, and in any case where the operator is not the owner, to the owner. Any operator subject

to this provision may challenge the law enforcement officer's action in Tribal Court. Provided, neither the officer nor the Tribes shall be subject to damages.

(d) All law enforcement officers and fish and game officers shall have the authority to enforce this Chapter, and the rules adopted by the Department pursuant to this Chapter within their respective jurisdictions.

**4-2-16 Title Certificate System—Legislative Intent—Authority for Rules and Procedures to Establish System**

It is the intention of the Tribes to establish a system of certificates of title for vessels and watercraft similar to that established by the Tribes for motor vehicles. It is the goal of this Chapter that the title certificate becomes prima facie evidence of ownership of the vessel it describes so that persons may rely upon that certificate; and that security interest in vessels be perfected solely by notation of a secured party upon the certificate.

**4-2-17 Inspection of Vessels**

The Department is hereby authorized to require inspection of vessels which are brought onto the Reservation from a state and for which no title certificate has been issued and for any other vessel if the Department determines that inspection of the vessel will help verify the accuracy of the information set forth on the application, or is necessary to protect the health and welfare of the Tribes, its members and others on the Reservation.

**4-2-18 Department and Tribes Immune from Suit for Administration of Chapter**

No suit or action shall ever be commenced or prosecuted against the Department or the Tribes by reason of any act done or omitted to be done in the administration of the duties and responsibilities imposed upon the Department under this Chapter.

**4-2-19 Severability**

If any provision of the Chapter, or its application to any person or circumstance is held invalid, the remainder of this Chapter, or its application shall not be affected.

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