

OFFICIAL COMPILATION OF CODES, RULES AND REGULATIONS OF THE STATE OF NEW YORK
TITLE 9. EXECUTIVE DEPARTMENT
SUBTITLE I. OFFICE OF PARKS, RECREATION AND HISTORIC PRESERVATION
CHAPTER V. MARINE AND RECREATIONAL VEHICLES
SUBCHAPTER A. MOTORBOATS

**APPLICABLE SECTIONS OF PART 448 FOR THE PLACING OF FLOATING OBJECTS IN NAVIGABLE
WATERS OF NEW YORK STATE**

*** Section 448.1.* Definitions.**

(a) Aids to navigation shall mean buoys, beacons or other fixed objects in the water which are used to mark obstructions to navigation or to direct navigation through safe channels.

(b) Floating object shall mean any anchored marker or platform floating on the surface of the water, other than aids to navigation, and shall include, but not be limited to, bathing beach markers, speed zone markers, information markers, swimming or diving floats, mooring buoys, and ski jumps.

(c) Adjacent upland owner shall mean the person or persons having title in fee to the land bordering on the water in which the floating object is to be placed.

(d) Special marker shall mean buoys, signs, floating or fixed objects in the water or on shore, other than aids to navigation, which are used to convey information, warning, or to indicate areas of control or regulation.

(e) Commissioner shall mean the Commissioner of Parks, Recreation and Historic Preservation.

(f) Diver shall mean anyone who dives below the water for exploratory purposes with or without the use of scuba equipment.

(g) Diver's flag shall mean a red flag at least 12 inches long by 12 inches wide with a white diagonal stripe exactly three inches wide, or shall mean a rigid replica of the international code flag "A" not less than one meter in height that is visible all around.

(h) Bathing beach area shall mean the water area used in connection with a bathing beach at a pond, lake, stream or other navigable water of the State which is used for bathing or swimming with the express or implied permission or consent of the owner or lessee of the premises and which is operated for a fee or any other consideration or openly advertised to the public as a place for bathing or swimming. It includes but is not limited to the water area adjacent to a bathing beach that is owned or operated by a:

(1) condominium or a cooperative and used exclusively by members of the condominium, cooperative project or corporation or association and their family and friends;

(2) temporary residence (hotel, motel, cabin or camping colony);

(3) children's camp; or

(4) State or local government entity.

It does not include the water area adjacent to a bathing beach that is owned or maintained by an individual for the use of family or friends.

*** Section 448.3.* Special anchorage areas.**

(a) Special anchorage area designation.

(1) Pursuant to the provisions of section 43 of the Navigation Law, the commissioner may, by rule, regulation or order, designate such areas as he or she may deem proper as special anchorage areas.

(2) An adjacent upland owner only may make application to the commissioner for a revocable permit to maintain a special anchorage area, without expense to the State, within the limits of his property. The commissioner may approve of the establishment of special anchorage areas if, in his opinion, such area will not be a hazard to navigation.

(3) When authorization in the form of a revocable permit has been duly granted, the special anchorage area shall be deemed lawfully established. If, in the judgment of the commissioner, special anchorage areas authorized by him are found to be improperly maintained, or have become a hazard to navigation, or the reason for their establishment no longer exists, or that the permittee has failed to comply with the conditions of the permit or rules and regulations contained herein, the commissioner may revoke such permit by causing a written notice to be mailed to the person to whom it was issued, directing the removal of all floating objects contained within such permit area by a specified date. The person to whom such notice is directed shall thereupon remove the floating objects in accordance with such instructions. In case of failure by the person so directed to remove the floating objects within the specified time, the commissioner may cause their removal. The cost and expense of such removal shall be a charge against the person authorized to maintain the area, and the commissioner may bring any action or proceeding against such person to recover the cost of removal of such floating objects.

(4) All such areas when so designated shall be marked in accordance with the specifications contained in this Part.

(b) Area marking specifications. The offshore limits of an area shall be marked with lighted buoys and shall mark the exact location indicated in the permit. The shore limits of the area may also be marked with lighted markers placed on stanchions which are higher than the offshore markers. In each case, buoys marking such areas shall meet the following specifications:

(1) Color. White.

(2) Numbering. None--each buoy shall be lettered "SPECIAL ANCHORAGE AREA", in block form of good proportion and colored black. The lettering shall be on two sides of the buoy.

(3) Lighting. White flashing lights shall be installed and must conform to specifications made by the commissioner depending upon location and other factors.

(4) Shape. Can.

(5) Construction. Types of construction shall be approved on an individual basis, considering the location and other factors. However, all buoys must be so designed that the light will be at least three feet above the waterline.

(c) Moorings in anchorage area. Moorings may be placed within the limits of a special anchorage area in such a manner so as to allow each moored vessel to swing free with wind or current, and with enough clearance to avoid contact with any other moored vessel. At no time may a vessel or part thereof extend outside the limits of the anchorage area. Vessels of less than 65 feet in length when anchored in a special anchorage area are not required to display anchor lights at night.

*** Section 448.4.* Floating objects.**

The commissioner has discretion to authorize, through the issuance of a revocable permit, the placing in the navigable waters of the State, mooring buoys, bathing beach markers, swimming floats, speed zone markers, or any other floating object having no navigational significance, if, in his or her opinion, the placing of such floating object will not be a hazard to navigation. The commissioner has discretion to require that the floating objects be placed according to any one of the methods the commissioner chooses that are outlined in section 274.5 of this Title. Any person who may desire to place such floating objects at his or her own cost and expense can make application, therefore, to the commissioner and submit a map suitable for reproduction showing the proposed location of such floating objects with their color and meaning. Only after authorization has been granted and in accordance therewith may such floating objects be lawfully placed. If, in the judgment of the commissioner, floating objects authorized to be placed are found to be improperly placed or that the reason for their placement no longer exists or that such objects have become a hazard to navigation, the permit may be revoked and the person may be directed to remove the floating objects within a specified time. In case of failure by the person so directed to remove the floating objects within the specified time, the commissioner may cause their removal. The cost and expense of such removal shall be a charge against the person authorized to place the floating objects and the commissioner may bring any action or proceeding against such person to recover the cost of removal of such floating objects. Each floating object lawfully placed shall bear in a conspicuous place and in legible condition the State parks and recreation floating object decal issued by the commissioner. All floating objects shall conform to the specifications contained herein.

(a) All floating objects having no navigational, informational or regulatory purposes such as swimming and diving floats, ski jumps, etc., shall be painted white and equipped with white reflector tape in such a manner that it can be seen from any direction. If such objects are authorized for placement in excess of 100 feet from shore, the commissioner may require they be equipped with a fixed white light to show all around the horizon for a distance of at least one-half mile.

(b) Mooring buoys. All mooring buoys shall meet the following minimum specifications:

(1) Size. At least one cubic foot of buoy to be above the waterline.

(2) Shape. Any.

(3) Construction. Any light self buoyant material.

(4) Lighting. None required. However, every buoy must be equipped with a one-inch strip of reflector tape all around the upper part.

(5) Color. All white with a one-inch blue stripe all around the buoy horizontally, above the waterline.

(c) Floating object placement by adjacent upland owners. Adjacent upland owners may place one mooring buoy and one swimming float of not more than 100 square feet of surface area in the waters adjacent to and within the boundaries of their shoreline, provided, however, that no floating object and no vessel or part thereof which is secured to a mooring buoy shall at any time extend more than 100 feet from shore and further provided that no floating object may be placed in a navigable channel or in any location in which it will interfere with free and safe navigation or free access to another person's property. The commissioner shall have the right to remove or alter the location of any such buoy or float in the interest of navigation.

(d) A bathing beach marker shall only be placed in a bathing beach area.

*** Section 448.5.* Special markers.**

(a) Permits. The commissioner may authorize the placing of special markers in the navigable waters of the State through the issuance of revocable permits as provided in section 448.4 of this Part.

(b) General specifications. All special markers shall conform to the following general specifications:

(1) Shape. Can, at least one and one-half feet from waterline to top of buoy if floating, if fixed on a stanchion, the can must be at least one foot in length and diameter and the bottom of the can shall be not less than three feet above the waterline.

(2) Color. Upper one fourth of the marker and the lower one fourth of the marker shall be international orange in color. The bottom stripe of orange shall show at least three inches above the waterline. The center section shall be white.

(3) Lighting. Fixed white lights may be installed and shall conform to light characteristics as specified by the commissioner depending upon the location of the marker and other factors. Unlighted markers shall be equipped with orange reflective material on the uppermost part of the aid. The type and extent of reflective material must be approved by the commissioner.

(4) Numbering. A letter of the alphabet or a combination of letters may be used to identify the location of a special marker on a chart. Such letter or combination of letters may be placed on the white section of the buoy.

(5) Construction. Types of construction shall be approved on an individual basis considering the location of the marker and other factors. However, all floating markers shall be of light materials which are entirely self buoyant.

(6) Symbol specifications. All symbols shall be in the center of the white section, equally spaced, on not less than two sides of the marker. The symbol shall cover an area of at least three-fourths of the height of the white section. The symbol shall be at least one inch thick and international orange in color. All lettering on the marker shall be black in color and in block form, running horizontally and shall be of good proportion in relation to the size of the symbol.

(c) Symbol significance.

(1) (i) A diamond shall be used to warn of possible danger to the boater or to others. The word "DANGER" may be placed on the marker to further define its significance

(ii) Alternatively, a diamond with cross shall be used to mark bathing areas or to otherwise prohibit the entry of boats to any area. Words may be placed on the marker to further define its significance and such words shall be specified by the commissioner depending upon the location and use of the marker.

(2) Circle. Shall be used to indicate the existence of regulation, control or zoning which is authorized by law or duly promulgated rules and regulations. Words may be placed within the symbol to further define its significance and such words shall be specified by the commissioner depending upon the location and use of the marker.

(3) Rectangle or square. Shall be used to convey useful information which has no navigational significance or bearing upon the regulation or control of boats. Words may be placed within the symbol to further define its significance and such words shall be specified by the commissioner depending upon the location and use of the marker.