



HENRY McMASTER
ATTORNEY GENERAL

October 7, 2010

Buford S. Mabry, Jr., Chief Counsel
SC Department of Natural Resources
P. O. Box 167
Columbia, South Carolina 29202

Dear Mr. Mabry:

In our telephone conversation you referenced the opinion of this office to you dated September 13, 2010 regarding S.C. Code Ann. § 50-21-30. That opinion concluded that inasmuch as the "special rules and regulations" set forth in such provision "...do not have general statewide applicability,...(such)...would not have to be promulgated pursuant to the Administrative Procedures Act." However, we did state that "...there must be an articulation of the special and unique circumstances that would necessitate special consideration."

Subsection (1) of Section 50-21-30 provides that

(t)he provisions of Title 50 and other applicable laws of this State shall govern the operation, equipment, titling, numbering, and all other matters relating thereto for watercraft and water devices using or held for use on the waters of this State; but nothing in this chapter may be construed to prevent the adoption of any ordinance or local law relating to operation and equipment of watercraft....

Subsection (2) of such provision states that

[a]ny subdivision of this State may...make formal application to...(DNR)...for special rules and regulations with reference to the operation of vessels on any waters within its territorial limits and shall set forth therein the reasons which make such special rules and regulations necessary or appropriate.

We are in agreement with your position that a municipality could enact an ordinance related to the operation of vessels on its waters and forward such to your department along with "the reasons which make such special rules and regulations necessary or appropriate." DNR could then respond

Mr. Mabry
Page 2
October 7, 2010

in a letter to the municipality that the ordinance would be effective inasmuch as the necessary criteria has been met.

If there are any questions, please advise.

Very truly yours,

Henry McMaster
Attorney General



By: Charles H. Richardson
Senior Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook
Deputy Attorney General