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AMEND THE FEDERAL BOAT SAFETY ACT OF 1971

GOVERNMENT DOCUMENTS

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KANSAS STATE UNIVERSITY LIBRARY HEARING

BEFORE THE

COMMITTEE ON COMMERCE

UNITED STATES SENATE

NINETY-FOURTH CONGRESS

SECOND SESSION

ON

S. 3214

TO DECLARE CERTAIN WATERS IN THE STATE OF NEW HAMPSHIRE TO BE NONNAVIGABLE FOR CERTAIN PURPOSES

H.R. 5630

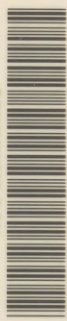
TO AMEND THE FEDERAL BOAT SAFETY ACT OF 1971 IN ORDER TO INCREASE AND EXTEND THE AUTHORIZATION FOR APPROPRIATIONS FOR FINANCIAL ASSISTANCE FOR STATE BOATING SAFETY PROGRAMS

APRIL 9, 1976

Serial No. 94-76

Printed for the use of the Committee on Commerce

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AMEND THE FEDERAL BOAT SAFETY ACT OF 1971

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(II)

Serial No. 94-78

United States Senate Committee on Commerce



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AMEND THE FEDERAL BOAT SAFETY ACT OF 1971

FRIDAY, APRIL 9, 1976

U.S. SENATE,
COMMITTEE ON COMMERCE,
Concord, N.H.

The committee met, pursuant to notice, at 9:30 a.m., in the auditorium of the Concord Public Library, Hon. John A. Durkin presiding.

OPENING STATEMENT BY SENATOR DURKIN

Senator DURKIN. Good morning. If everyone is ready, we might as well get going. This is sort of an open-ended proceeding this morning. Anyone who wants to be heard, will be heard. At this stage we are not sure of the number of people who will want to be heard.

It is really a pleasure to be here this morning and to be chairing this hearing. I am not only hopeful that it will bring or shed light on the matter and help keep the matter illuminated while the Secretary of Transportation is making his decision, but as I said many, many times, I think the problem is that too many decisions are made in Washington without sufficient basis and without the input of the people back home who are going to suffer if the decision is made out of whole cloth.

At the outset I want to thank Senator Magnuson, the chairman of the Senate Commerce Committee, for giving us the opportunity of holding the hearing here on such short notice. It's not an everyday procedure, and I think we ought to recognize the fact that Senator Magnuson has been very, very helpful.

Also, I would like to thank Lois Mackey for helping us with the facilities here. She has been very helpful. We appreciate the hospitality. I think it is especially fitting because I understand this is National Library Week as well.

I want to emphasize that we're here to listen. The function today is to listen and to gain information to make a strong record; a record for the Secretary of Transportation who is now, as you know, in the process of reviewing the earlier USCG decision; and if need be, a record for a court proceeding; and if a court proceeding would fail, then a record for action in the Senate and hopefully in the House as well.

I think that is the scenario; how it should unfold. Hopefully the Secretary will make permanent the relaxation of his claim of jurisdiction over the lakes. If not, the next best and fastest avenue is a court proceeding; and if the court proceeding and the Secretary do not have the same clear view of the case that we have, then I think we

Staff member assigned to this hearing : James P. Walsh.

have to build a record to take to the Senate floor and to the floor of the House as well.

Even though the New Hampshire delegation is not here this morning, I think I would be remiss if I did not indicate that Senator McIntyre, who as we all know comes from the lake region, is very, very concerned. The Senate is in session today on a budget bill. The House is in session, and even though Jim Cleveland and Norm D'Amours are not here this morning, the record will be left open for statements, and Senator McIntyre intends to put in a statement. But I want to assure you all that the New Hampshire delegation is unified behind the efforts to keep or to get the Coast Guard (USCG) out of the lakes and keep them out of the lakes in the lakes region.

I can only hope that the actual hearings are as successful as the threat of holding them. Within hours after Chairman Magnuson announced this hearing, the Secretary of Transportation announced his decision to relax the assertion of jurisdiction over the lakes. And in discussions with Department officials this week, they indicated a decision would be forthcoming probably by the summer. But sometimes the smallest unit of time in Washington is a week. I wouldn't make any travel plans based on the fact that they hope to have a decision within a couple of months.

But, as I said, in addition to listening and gathering evidence today, we want to keep the light on this matter so that the decision is not made in a concrete cubicle in Washington.

Because the Secretary is reconsidering his entire position, he requested that the DOT witnesses and the USCG witnesses not be required to testify today. Inasmuch as this hearing is a continuing process, we acceded to their request that they not testify today. We look upon today as one phase of the hearing—hopefully no other phrase is needed—but this phrase is for the proponents, those who want the USCG out of the lakes. This is the day to put our best case in; this is the day to build that record. Hopefully the DOT will change its position and there will be no need to hear from DOT or the USCG. But if their decision does not make permanent the decision of the Secretary, then rest assured, we will give the USCG and the DOT ample opportunity to testify.

The first time I testified before a congressional committee, I was a little nervous, but this is not an adversary proceeding. It's hopefully a warm, friendly proceeding. It's the people of New Hampshire making a record of their concern that we will take back to Washington with us.

I think it must be said at the outset that this USCG controversy is both legal and political. Ultimately, the issue must be resolved in accordance with the Constitution, Federal law, and the Federal case law as applied to the facts of the situation. But getting to that point is not all that easy, especially when dealing with the Federal bureaucracy. And that's where the politics come in. Politics in the real sense; politics in the sense that Aristotle meant it;

not partisan politics. There are no D's and R's or I's after the names in this fight. This is politics in the true sense of the word and in its broadest connotation.

And I think we all know, without the pressure brought to bear on the Secretary by this committee, by members of the New Hampshire delegation, Governor Thomson, State officials, and the State legislature, this matter would still be unresolved; and if there was a meeting in New Hampshire today, probably it would have been in Federal court contesting the USCG jurisdiction.

In a printed opening statement, and there are copies on the back table if anyone wants one, there is set forth the chronology of the actions affecting this whole controversy as we understand them. It will be in the record and will be made a permanent part of the record. There are copies if anyone wants them.

[The material follows:]

CHRONOLOGY

September 2, 1975: The Commandant, USCG, hands down a decision, based on recommendations from the Boston District, that the Merrimack River, Lakes Winnepesaukee and Winnisquam and their connecting waterways are "navigable waters of the United States" as interpreted under the Constitution's Interstate Commerce clause.

September 26, 1975: Written notification of the determination of navigability was received by the State of New Hampshire from the Coast Guard's 1st District Commander.

December 9, 1975: Governor Meldrim Thomson responds with a letter disagreeing with the tests by which the determination was made and threatening to seek a court injunction and administrative review of the decision.

December 10 1975: The Committee on Resources, Recreation & Development of the New Hampshire House of Representatives unanimously passed a resolution calling for Congressional exemption of the affected waterways from Federal control.

January 22, 1976: Coast Guard Congressional Affairs officers are summoned to a meeting with members of the New Hampshire Congressional delegation to explain the change in jurisdiction.

January 29, 1976: Joint letter by Senators McIntyre and Durkin requesting written analysis of the anticipated Coast Guard presence on the disputed Lakes, explanation of the Federal numbering system, and description of the applicable commercial vessel regulations of the Coast Guard.

January 29, 1976: House Resolution 1 of the 1975-6 Special Session of the New Hampshire House of Representatives passed unanimously, mandating injunctive and legislative initiatives at the Federal level to reverse the Federal takeover, and directing the Speaker of the House to undertake hearings on alternatives available to the State.

January 30, 1976: Congressional staffs meet to discuss various methods of resolving the dispute to the satisfaction of the Lakes Region.

February 10, 1976: Thomson letter to Secretary of Transportation requesting a two-year moratorium on implementation of the Coast Guard action.

February 17, 1976: Washington meeting between state legislators and other citizens and representatives of the Coast Guard and the Transportation Department, sponsored by the Congressional delegation.

February 20, 1976: Congressional staff briefing on revenue impact of Coast Guard registration program by DOT/USCG legal officers.

March 2, 1976: "For the Record" inquiry to Coleman requiring written justification of legal, financial, and administrative position of the Department, and an answer to the "moratorium" issue.

March 11, 1976: Coleman letter to Thomson denying the authority of Transportation to institute a moratorium on the assumption of Federal responsibilities following a determination of navigability.

March 26, 1976: Durkin bill, S. 3214, cosponsored by McIntyre, introduced in Senate, referred to Committee on Commerce.

March 29, 1976: McIntyre calls White House Liaison officials to urge an immediate moratorium on the assumption of Federal jurisdiction on the Lakes and the Merrimack.

March 30, 1976: Senate Committee on Commerce announced hearings to be held concerning the effect of Federal Boat Safety Act provisions on the Merrimack River watershed, to be chaired by Durkin in New Hampshire.

March 31, 1976: Coleman announces the reconsideration of the determination of navigability to follow the revocation of the determination of September 2, 1975. The *de novo* review of the situation will be done with the advice of the Department of Transportation this time.

Senator DURKIN. If we have misstated or overlooked any relevant facts in the chronology, please don't hesitate to bring them to our attention during the hearing or later. I'm not going to read the chronology. You have all lived through it. It dates back to last fall, and I think it can be synopsisized that when an overly ambitious Federal agency bit off a piece of the sovereign State of New Hampshire, it found out that it had bit off more than it could chew. For nearly 6 months it sat on its hands with its mouth full, unable or unwilling or both to defend its actions despite mounting protests.

As we know, the USCG interest in the lakes dates back to early 1972 when the New Hampshire Department of Highways inquired about the need for an environmental impact statement for the plans to rebuild Mosquito Bridge on Route 3A at Winnisquam. The USCG was assigned the task of determining if a study was necessary, and the matter was referred to the USCG office in Boston.

There began a process of indecision, internal conflict and buck-passing which eventually resulted in a ten page legal opinion by the Commandant of the USCG declaring that the heart of New Hampshire's recreation and vacation areas were to be under Federal jurisdiction.

During the entire 21½ years which intervened between the highway department inquiry and the issuance of the 10-page opinion, the State was to my knowledge and according to our research never once consulted, advised, or otherwise informed about the pending decision. This is perhaps the most disturbing aspect of the entire episode: The USCG's steadfast refusal to take the people who would be affected into their confidence and work with them to make the situation workable. Because of that secrecy, I suspect the USCG was doomed in their efforts.

There are several issues today that we are concerned with. The first issue is the one of navigability. Are Lakes Winnisquam and Winnepesaukee, and the Merrimack River which flows from them, a part of a Federal waterway for the purposes of interstate commerce, and therefore under Federal jurisdiction?

Over the course of 200 years, Federal courts have handed down hundreds of decisions on specific questions involved in determining

whether a lake or river is navigable from the sea. These precedents have become the tests which the USCG uses when it evaluates situations like the one presented in New Hampshire. One such precedent was the 1966 Federal district court case, *Marine Office of America v. Manion*, in which the Federal Court ruled that Lake Winnepesaukee was not part of the navigable waters of the United States. The USCG itself, 6 years earlier, had reached the same conclusion. In a document sent to the Boston Commandant in 1960, it was ruled that the Merrimack River was navigable only to a point 4 miles north of Nashua—about one-third the distance to Lake Winnepesaukee.

Despite this, the USCG lawyers now say the tests are cut and dry and that Winnepesaukee and Winnisquam clearly pass as Federal waterways. We know what that is, that's bologna.

There are so many tests and precedents on the issue of navigability that a single-paragraph explanation of each decision fills 40 pages of fine print in a legal dictionary. Many of these decisions are misleading, contradictory, or out and out illogical.

The principal case upon which the USCG based its claim of navigability states that if a river could be dredged, straightened, cleared, widened and otherwise improved to the point where it was navigable for the purposes of interstate commerce, then it would be declared to be waters of the United States, navigable waters of the United States. Thus, just because there was a 1796 State charter to build a canal up the Merrimack River from Lowell to the lakes, the USCG has ruled it is feasible and possible that a Federal waterway is still in the making.

Needless to say, although the New Hampshire Legislature may have granted a charter for such a project, no money was appropriated. This is something that Marshall French and Chris Spiro are quite familiar with. The USCG has painted with so broad a brush, so broad a stroke that under their theory the USCG could claim every puddle in Belknap County that could be made into a potential Federal waterway, a navigable waterway.

The second issue is the money issue. Secretary Coleman has written that the State stands to gain \$70,000 under USCG jurisdiction. State officials on the other hand, have stated the estimated revenue loss. Bob Whelan and some of the other State officials have clearly stated that we stand to lose a substantial amount. This is one of the things we would like to try to resolve today for the record; what are the facts on the money issue?

Third, it appears that the Federal Government may be trying to lower New Hampshire's standards for clean water, boating safety, and legal liability. That is a major concern.

The fourth point, an area we want to touch upon today, is a complex question. There is considerable legal dispute on the question of how Federal jurisdiction might affect the law suits arising from boating accidents, private citizen boating accidents on the lakes. As you know, under Federal admiralty law, generally speaking, ships are liable only

for damages up to the value of the craft. But it is unclear whether that admiralty statute applies in Federal waterways which are inland. Again, if the USCG assertion of jurisdiction were successful, would the liability of someone who seriously injures or kills someone fishing on the lake, would the liability be restricted to the value of the craft that inflicted the injury? I think it is an issue that hasn't been touched upon very much in the proceeding, but I think it is a serious issue as far as any prospective plaintiffs are concerned.

Finally a less precise but in many ways a more important issue is the aspect of States rights, the centralized government, and what have you.

You know, we just passed the 200-mile limit bill. It's on the way to the President's desk. That was to claim jurisdiction from the coast 200 miles toward the Azores. I think the USCG got turned around, and from a quick reading of the bill, they thought it gave them jurisdiction 200 miles inland. We hope to be able to clarify that problem.

I think there is another point, the States rights point. I think the Federal law, whether this is resolved by DOT. I think it's an ongoing concern for the Congress. The Federal law should have said when the State standards are superior—be they boating standards, environmental standards—they may not be preempted by a weaker and less effective Federal law. Hopefully this is an area that we can resolve in the weeks and months to come.

But in the short run I think what we have got to do is to continue to bring all the legal and political light, if you want, pressure, that we can muster in order to encourage the Secretary to make permanent his temporary ruling which was favorable. But if that fails, than to help the Attorney General, who has done an excellent job, and provide him all the assistance possible to seek redress in the Federal court and to have the record to argue in the committee and on the floor of the Senate and the House.

The message running through all this really is that the Federal Government ought to be the government of last resort. We ought to be able to solve our own problems in our own way. It's the old story that the lowest level of government that can get the job done should be the highest level to get the responsibility.

[The bills and agency comments follow:]

IN THE SENATE OF THE UNITED STATES

MARCH 26, 1976

Mr. DURKIN (for himself and Mr. McINTYRE) introduced the following bill;
which was read twice and referred to the Committee on Commerce

A BILL

To declare certain waters in the State of New Hampshire to be nonnavigable for certain purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That for the purposes of the Act of April 25, 1940 (Motor-
4 boat Act of 1940) (54 Stat. 163), the Act of May 10,
5 1956 (Small Passenger-Carrying Vessel Inspection Act)
6 (70 Stat. 151), the Federal Boat Safety Act of 1971 (85
7 Stat. 213), the Merrimack River, Lakes Winnepesaukee and
8 Winnisquam, and the waterways connecting such lakes, in
9 the State of New Hampshire are declared to be nonnavigable
10 waters.

- 1 SEC. 2. The right to alter, amend, or repeal this Act is
- 2 expressly reserved.

STATUTE BOOK OF THE UNITED STATES

THE HOUSE OF REPRESENTATIVES HAS PASSED THE FOLLOWING BILL:
which was reported to the Senate on January 1, 1907

A BILL

To amend the Act approved July 1, 1906, relating to the
administration of the customs laws.

- 1 This bill is amended by inserting at the end of the title the words
- 2 "and to amend the Act approved July 1, 1906, relating to the
- 3 administration of the customs laws."
- 4 And that the title of the bill be amended to read as follows:
- 5 "To amend the Act approved July 1, 1906, relating to the
- 6 administration of the customs laws, and to amend the Act approved
- 7 July 1, 1906, relating to the administration of the customs laws."
- 8 And that the title of the bill be amended to read as follows:
- 9 "To amend the Act approved July 1, 1906, relating to the
- 10 administration of the customs laws, and to amend the Act approved
- 11 July 1, 1906, relating to the administration of the customs laws."

94TH CONGRESS
1ST SESSION

H. R. 5630

IN THE SENATE OF THE UNITED STATES

NOVEMBER 18, 1975

Read twice and referred to the Committee on Commerce

AN ACT

To amend the Federal Boat Safety Act of 1971 in order to increase and extend the authorization for appropriations for financial assistance for State boating safety programs.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That section 30 of the Federal Boat Safety Act of 1971 (85
4 Stat. 224; 46 U.S.C. 1479) is amended by striking out "for
5 the fiscal year ending June 30, 1972, and \$7,500,000 for
6 each of the four succeeding fiscal years," and inserting in
7 lieu thereof the following: "for each of the fiscal years be-
8 ginning with fiscal year 1972 through fiscal year 1976,
9 \$2,500,000 for the transition period of July 1, 1976,
10 through September 30, 1976, and \$10,000,000 for each of
11 the fiscal years 1977, 1978, and 1979,".

Passed the House of Representatives November 17,
1975.

Attest: EDMUND L. HENSHAW, JR.,

Clerk.

OFFICE OF THE SECRETARY
OF TRANSPORTATION,
Washington, D.C., March 5, 1976.

HON. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Reference is made to your request for the views of the Department of Transportation concerning H.R. 5630, an Act "To amend the Federal Boat Safety Act of 1971 in order to increase and extend the authorization for appropriations for financial assistance for State boating safety programs."

H.R. 5630 would extend the authorization of appropriations for Federal financial assistance to State boating safety programs beyond the current expiration date of fiscal year 1976 through fiscal year 1979. The bill would authorize the appropriation of \$2,500,000 for the transition period of July 1, 1976, through September 30, 1976, and \$10,000,000 for each of the three succeeding fiscal years.

This Department has submitted a legislative proposal (S. 2383) which would extend the authorization of appropriations under the Federal Boat Safety Act (FBSA) through fiscal year 1978 and would maintain the limitation on the Federal share at 33-1/3% for the period of the authorization. Our proposal would authorize the appropriation of \$1,500,000 for the transition period of July 1, 1976 through September 30, 1976, and \$7,500,000 for each of the two succeeding fiscal years. Additionally, our proposal contains amendments to the FBSA to clarify ambiguities and resolve problems which have arisen during the last four years. The amendments clarify which States are eligible to receive financial assistance; provide for limited audit expenses, auditing being essential to the proper administration of the financial assistance program; provide the Secretary with increased discretion in establishing the effective date of regulations or standards which require major product redesign, retooling, or change; and authorize the Secretary to require dealers and distributors to assist manufacturers in obtaining first purchaser information to make the defect notification program more effective.

The House Committee on Merchant Marine and Fisheries has decided that detailed oversight hearings on the FBSA should be completed before decisions are made on programmatic revisions to the FBSA. Therefore, it reported out H.R. 5630 only extending the authorization of appropriations because of the current termination date of June 30, 1976.

In view of the intention of the Congress to hold an extensive review of the Federal boating safety program, the Department has no objections to the simple extension approach of the House of Representatives. However, consistent with the concept of a short-term extension pending a comprehensive examination of the program, we believe the program extension should be limited to two years and the transition quarter (the House bill extends the current program through FY 1979) and that authorizations should be continued at the current annual level of \$7.5 million and \$1.5 million for the transition quarter. We would also urge the inclusion of the noncontroversial provision in the Department's proposal which provides for funding of the limited audit expenses incurred in the administration of the financial assistance program.

To rectify a technical oversight in H.R. 5630, we recommend that section 28(a) also be amended by striking the period at the end of the first sentence and inserting in lieu thereof the following: ", the transition period of July 1, 1976, to September 30, 1976, and each of the two succeeding fiscal years." This amendment will continue the limitation of 33-1/3% on the Federal share during the period of the authorization of appropriations as intended by the House Committee.

With the adjustments recommended above, we would have no objection to the approach taken by the House of Representatives on this legislation. However, we do urge early consideration of our other proposed amendments to strengthen the management of the FBSA program.

The Office of Management and Budget advises that from the standpoint of the Administration's program there is no objection to the submission of this report for the consideration of the Committee.

Sincerely,

JOHN HART ELY,
General Counsel.

Senator DURKIN. The general procedures and because this is a Senate Committee proceeding, the general rules of the Senate apply in that the elected Federal officials—Jim Cleveland is not here; Norm D'Amours is not here. I know Dave LaRouche is here from Tom McIntyre's office. Dave is going to put in a statement on behalf of Senator McIntyre.

[The statement follows:]

STATEMENT OF HON. THOMAS J. MCINTYRE, U.S. SENATOR FROM NEW HAMPSHIRE

Mr. Chairman, as one whose roots run deep in the communities affected by the Coast Guard controversy, I welcome this opportunity to express with my friends and neighbors the concern we all feel about the proposed change in the jurisdictional responsibility of Lakes Winnepesaukee and Winnisquam and the Merrimack River.

No one wants to see our state disadvantaged, inconvenienced or otherwise penalized by ill-advised application of a ruling from Washington that makes no sense and denies the people's right to responsibly tend to their own affairs or bring into question the safety of their lakes.

It strains our imagination to believe that those falls, rapids and dams on waterways connecting Lakes Winnepesaukee and Winnisquam to the ocean are even remotely capable of classification as "navigable."

Yet we are told that the key issue involves just such a legal definition. Now we could easily defy the Coast Guard to prove the Merrimack navigable. It would be mighty good sport to watch even the most intrepid of our Coast Guardsmen trying to navigate Hooksett Dam, East Concord Dam or Garvins Falls. It would be even more fun in the Winter.

As the editorial writer for the Concord Monitor observed facetiously many months ago, "We'd be inclined to give up this dispute without a fight if the Coast Guard would just show us it could get one of its cutters from the Atlantic Ocean to Lake Winnepesaukee—and no fair portage."

So the key question, then, is navigability where no prospect of navigability really exists. And now it boils down to just what we can do about it.

First, we have achieved a moratorium on Coast Guard jurisdiction. And for that we can thank our Attorney General, the Secretary of Transportation and the President himself who I know through my personal communications was deeply concerned about this matter. Attorney General Souter's efforts in making the State's case went a long way toward gaining us respite from Coast Guard jurisdiction.

Mr. Souter's office is now investigating very interesting possibilities raised in Rochester Gas & Electric Corp. versus the Federal Power Commission, 344 F. 2d 594, which decided questions of navigability that could be to our State's advantage.

I won't try to state the case here but it turns on the very basic question of whether it would ever be economically feasible to make the Merrimack navigable. It is my understanding the Coast Guard's definition of navigability includes waterways which in the past or future were or could be capable of carrying interstate commerce. But, if our interconnecting waterways hold little or no promise of navigability because of the lack of need and tremendous cost of making them navigable, i.e. by moving dams, constructing locks, etc., then it makes no sense to now classify them as navigable for purposes espoused by the Coast Guard under the Boat Safety Act of 1971.

While this argument holds promise and should be pursued diligently, it also seems to me possible that a court suit contesting navigability could be a long, expensive proposition dragging into the 1977 summer season. Hopefully, the Transportation Secretary and the Coast Guard will not force such a suit and will agree that navigability does not apply. That would be the end of it and we could all rest easier.

At this point, I would like to comment briefly on the Federal Boat Safety Act of 1971 which was introduced in the Senate on February 10, 1971 by New Hampshire's distinguished former Senator Norris Cotton, who was then ranking Republican member of the Senate Commerce Committee. The Act, which was signed into law by then President Nixon on August 10, 1971, was intended to establish a uniform national program of comprehensive boating safety and to create a State-Federal partnership for this purpose. It has since been embraced by all states

with the exception of New Hampshire and Alaska. In addition, the Coast Guard tells me that the State of Washington is in the process of implementing the standardized boat numbering system provided for in the Act.

Mr. Chairman, I would ask that at this point in the record, or at a point you may deem appropriate, that correspondence dealing with the legislative history of the law be made a part of the permanent record. This material was provided to me by the Senate Commerce Committee, copies of which were also provided to your staff. This material deals with the opinion of various state officials and Senator Cotton as to important provisions in the Act and their impact on the state of New Hampshire.

Now I think it should be stated that the law applies "to vessels and associated equipment used, to be used, or carried in vessels used, on waters subject to the jurisdiction of the United States." The law encourages adoption by states of boat safety programs meeting minimum Federal requirements dealing with safety equipment, boat construction and numbering so that those piloting boats from one state to another won't run into a hodgepodge of differing standards. But the key words regarding applicability are vessels "on waters subject to the jurisdiction of the United States . . ."

Given that background, it seems all the more ludicrous that the Coast Guard should level the classification of "navigability" on Lakes Winnepesaukee and Winnisquam and their interconnecting waterways in view of their obvious lack of use in interstate commerce. Yet that is the finding which triggered this controversy as a result of the state of New Hampshire's request for a bridge permit. Even more absurd, in my view, is the Coast Guard's reliance for the purposes of this Act on 18th and 19th century discussions of the possibility of making the Merrimack navigable, discussions which obviously pre-dated widespread use of railroads and trucks for freight transportation. Is this antiquated standard relevant to promotion of boat safety in the 20th century?

As I mentioned earlier, it seems to me that we can make a good case for the absurdity of the navigability classification in discussions with the Coast Guard, Transportation Secretary Coleman or even through a court suit.

But there is a second avenue which is now being explored. In this regard, New Hampshire's congressional delegation plays a key role by continuing to press diligently for legislation to achieve an exemption from Coast Guard jurisdiction under the Boat Safety Act.

The hearing today by my colleague Senator Durkin is an important step toward amassing the evidence we will need to try to convince the Congress that New Hampshire's situation is unique and merits such favorable consideration. Senator Durkin is a member of the Commerce Committee which has jurisdiction over this legislation and we are very fortunate to have these timely hearings under his able direction.

As a lawyer, however, I recognize the difficulty we will have in convincing the members of the Senate and House from 49 other states that our lakes and interconnecting waterways deserve special treatment. While I have joined in co-sponsoring Senator Durkin's legislation to achieve this determination I must point out there are pitfalls ahead. Working together, however, I am hopeful we can win approval in the Senate. If so, the House too must approve such a measure and we do have strong support from Congressman Norm D'Amours and James Cleveland. I won't try to speak for them on the prospects for passage in the House, but my own investigation indicates approval will be even more difficult in the House than the Senate.

Now there is a third avenue available which would lead to continued confusion, more political bombast and failure to resolve this controversy. This is the political device utilized by some of our so-called leaders whereby they treat the public as though it has a 12-year-old mentality, instead of as adult citizens who want the truth in clear, hard terms. An overwhelming majority of our citizens today feel that government leaders are afraid to tell it like it is—to lay out all the facts and tell the public the hard truth.

I also believe very strongly that the people want their elected representatives to understand the public's real concern about the quality of life in this country. The people don't want the politics of appeal to easy promises and political demagoguery. Rather than rhetoric, they want assurances—as in this Coast Guard controversy—that the quality of the lakes and their interconnecting waterways will be preserved. And they want to know that law and order will prevail.

If it is the quality of life in New Hampshire that is our main concern, then, the question of Coast Guard assertion of concurrent jurisdiction should be viewed as either a hinderance or an asset. On the basis of what I know today, I'd say

that Coast Guard jurisdiction just doesn't make sense. But there is a possibility our state's efforts through the Attorney General's office and the Congress will not prevent another finding of navigability.

If this happens, we'll find ourselves embroiled again next spring in a grim confrontation with renewed prospects for chaos and confusion, political posturing and emotional discourse.

Instead, it is my hope that the appropriate committees of the state legislature will begin an in-depth analysis of what could happen if the Coast Guard retains jurisdiction. I think the people deserve to be told by the Coast Guard and state officials just what is at stake. Too many questions are unanswered. Is it true, as the Coast Guard claims, that the state can continue to require holding tanks on boats using our lakes? Is it true that the state is now losing upwards of \$60,000 in registration fees because boat owners on the seacoast and the Connecticut River register with the Coast Guard and not the state? Could this revenue be regained if our state adopted a boat numbering system which conforms with the system used by all other states except Alaska and Washington? Is it true, as the Transportation Secretary claims, that the state would not lose revenue under this standardized numbering system? Could New Hampshire continue lake patrols and would the state legislature be required to pass more stringent boat safety laws dealing with life preservers to comply with the Federal standards? Is it true that the state stands to lose Federal boat safety grants estimated at \$80,000 unless New Hampshire adopts a Coast Guard approved numbering system? Is it legal to exact user fees or ramp fees or other revenue producing measures in conjunction with Coast Guard jurisdiction? What has been the experience of neighboring states such as Maine and Vermont? Has there been an increase in boats on their lakes? Has the Coast Guard attempted to assert jurisdiction causing protests and inequity for residents of other states? Are other states losing any revenue because they have adopted a Coast Guard approved boat numbering system? What has happened to law enforcement and the quality of their lakes?

There are many other questions which it seems to me must be explored in a calm and dispassionate way if the veil of confusion and emotional outburst is to be lifted. In the informational vacuum up to now, our people have been alarmed and agitated, and rightly so. This committee is making an important contribution toward bringing more light and less heat to a controversy that must end with a renewed concern for the preservation of the quality of our lakes and rivers.

We have time to bring perspective to this issue. Now it's up to all of us to achieve a resolution of this problem that will survive the test of sensibility while making certain we have not compromised the quality of life that makes New Hampshire so unique.

Senator DURKIN. The batting order, why don't we go to the State elected officials, and I know, Marshall, you have a statement. If you want to take a seat and make yourself comfortable. And I know, Chris, you want to make a quick statement.

Marshall, go ahead.

STATEMENT OF MARSHALL FRENCH, MEMBER, NEW HAMPSHIRE STATE HOUSE OF REPRESENTATIVES

Mr. FRENCH. I'm Marshall French, the majority leader in the House, a resident of the lakes region, a resident from Meredith in the lakes region. Although I'm not an expert on boating particularly, I have owned and operated boats on Lake Winnepesaukee from a simple rowboat and canoe up to a 33-foot cruiser which I owned for many years.

My testimony, as far as I'm concerned, will start with the fact that the true scope of this situation is not even now fully understood. Either this caper was a full-fledged attempt by the Federal Government to force New Hampshire to adopt a new numbering system or simply a display of bureaucratic incompetency. I hope that it was simply the latter.

For the past several years the New Hampshire Legislature has considered legislation that would have adopted a USCG approved numbering system. In each case the legislators have not elected to pursue this course. If the real intention behind the determination was to force the State of New Hampshire to change her laws then the USCG is guilty of serious violation of the spirit and letter of State sovereignty. I might add that I am not opposed, in principle, to a uniform numbering act. However, since the recreation industry is so vital to our State's economic well-being and preservation of New Hampshire's scenic heritage is of interest to us all, any change of this nature must be carefully considered. The New Hampshire Legislature will not be blackmailed and arm-twisted into passing those laws that are most convenient to the USCG.

In my estimation none of this controversy would have occurred if the bureaucrats with authority had given careful consideration to the impact which the USCG determination would have upon the State of New Hampshire. An environmental impact study should be undertaken when a Federal action impinges upon State or local pollution standards. No environmental impact study was conducted by the USCG prior to their determination.

I applaud the recent decision by Secretary of Transportation Coleman. I hope that this is indicative that the Federal Government is moving to correct this administrative boondoggle.

It would be a mistake to assume that the problem has passed. As it stands now, if the moratorium is terminated not only will all of the old questions return, but this determination may be cited as a precedent by other arms of the Federal Government that desire jurisdiction over New Hampshire's inland waters.

New Hampshire's boating safety programs are superior to those which could be provided by the USCG. Furthermore, our pollution standards are more stringent than the Federal standards which would be enforced by the USCG. For example, New Hampshire standards require that motorboats using holding tanks for sewage, Federal statutes do not. We in this State look to Congress for assurance that we will be able to continue with our excellent boating program without harassment by the USCG.

I would like to say that I have here a book of the rules and boating laws and regulations of the State of New Hampshire which I would like to submit to this committee in which they can compare with the USCG rules and regulations. I think they will find that they are far superior, that our rules are far superior here: that we have taken much more careful consideration in steps for the safety of people on our lakes than the USCG has in their safety. The USCG I know, has a broader scope than we do perhaps with our inland waters but I feel that one of the biggest problems and the feeling of the people in the lakes region is the fact that we would lose maybe not revenue, because I know you brought that up as a question, John, and I don't feel, Senator Durkin, that we would actually perhaps lose revenue as I understand it now. However, I think we would lose the impetus to enforce many of our safety regulations on the lake because they'd say, "Leave it to the USCG." I feel very strongly about the fact that we have good

boating laws and this in my estimation is very important in comparison with the USCG boating laws.

I would hope I could answer any questions that the committee might have relating to boating laws. Although I am not an authority on them by any means, as I said I have operated up to 33-foot cruisers on the lake for many years. I've been a resident of the lakes region for over 20 years and I'm a native of New Hampshire. I also have had something to do in my terms as a legislator in adding to the boating laws and rules and regulations; maybe not directly but indirectly. At this time if anybody has any questions, I'll try and do the best I can to answer them.

Senator DURKIN. Marshall, you say you feel that the major loss will be the relaxation of environmental standards and the relaxation of boating safety regulation and enforcement.

Mr. FRENCH. Right.

Senator DURKIN. That translates back into a local problem because if the safety factor declines, the insurance costs for boating coverage goes up.

Mr. FRENCH. Also, Senator, I am very concerned with perhaps the growth of boating as it pertains to the eutrophication and pollution of our lakes. I'm not a person who feels that actually the number of boats necessarily pollutes our lakes in the average running but I'm very concerned about holding tanks, about many of the things that would happen when we open up our lakes to just anybody that has a USCG numbering system; we have kept them fairly well under our own jurisdiction and I feel that this is an important part, pollution-wise. Every lake in the State of New Hampshire is becoming critical as far as eutrophication is concerned; not necessarily because of the number of boats but because of the stuff that goes into the lake. We have a very good law as far as holding tanks on all our cruisers and I believe it's a very important part of our basic law and of enforcement.

Senator DURKIN. Has the lakes region Clean Water Association—have they done anything with respect to the potential damage to the ecology and the necessity for an impact statement?

Mr. FRENCH. I believe the lakes region clean water's was about to start a suit, until notice came out, against this action based on the fact there had been no impact study made. Of course with Secretary Coleman's relaxation at this particular time, I believe until the thing is settled, now some way in the future, that perhaps, I'm sure they're going to keep up their action, but I think they haven't actually performed a suit at this time. I'm a member of Clean Waters but I'll be frank with you, I don't know whether they have actually sued.

Senator DURKIN. The USCG has, in correspondence, indicated it was their opinion that the Environmental Impact Study was not necessary because it was a Federal entity just asserting jurisdiction of the law, but that is not carved and concrete. There are some people that would dispute the fact because I know not too long ago up in Kansas City the Air Force was trying to close a base and the people that were opposed to closing the base went in and said there had been no Environmental Impact Statement and you can't

do it. The Federal court said, "You're right. There's got to be." It's not much now that doesn't require an environmental impact statement.

I'll be happy to leave the record open if there's anything else that you want to add, anything else that comes to your attention, the record will be open and please, if we can help—

Mr. FRENCH. One thing I would like to say, Senator. I want to congratulate you and thank you very much for holding this hearing and also the Chairman of the Commerce Committee because I feel it's only through our getting together in communiques that we can resolve this problem.

Senator DURKIN. Thank you.
Chris.

STATEMENT OF CHRIS SPIRO, MEMBER, NEW HAMPSHIRE STATE HOUSE OF REPRESENTATIVES

Mr. SPIRO. Thank you Mr. Chairman, Senator Durkin of New Hampshire, and honorable members of the Senate Commerce Committee.

My name is Chris Spiro, I'm a State Representative from Manchester and I serve as the House Democratic Leader. I appreciate the opportunity to testify before you today.

I thank you Senator Durkin and the distinguished members of the Senate Commerce Committee for coming to our State to listen to its aggrieved citizens. As you are well aware, Senator Durkin, the citizens of New Hampshire are aggrieved but very appreciative of the opportunity your committee is affording them to express their grievance. Seldom does the mountain go to Mohammed, but the mountain has come to Mohammed. Your statement covered the subject matter very well, but those of us who are in State government and who contend that the regulations that we have governing boating safety are superior to those of the Federal Government, those of us who contend that New Hampshire departments provide a much more personal service than the impersonal Federal officials could ever expect to provide, and those of us who contend that the State of New Hampshire can regulate its own waters object to the interference by the USCG.

Now there might be an argument as to why the USCG decided to get involved. My contention is that Federal bureaucrats are in a syndrome, the syndrome which I call the divine right to regulate. I think the hearings that you have begun here, and hopefully future meetings, political pressure, political convincing, will result in the Federal officials understanding that 200 mile jurisdiction is outwardly and not inwardly, and that hopefully they will understand that they are not to be fresh water sailors. The people in this State who live in the area know very well that the State has provided them with a good service. They also know that if they have a grievance, if they have anything to say about the way the issue is regulated, they can go to Marshall French, to other State officials, to the Department of Safety and to anyone else that they can pressure, convince or discuss the problem with and get a better

service on a one-to-one basis. I think you are very well aware the kind of legislature we have in this State; you are well aware that our departments are responsive. I hope that the end result of this controversy is going to be the recognition by the Federal officials that the State of New Hampshire can and will determine its own destiny.

Mr. Chairman, I will close by telling you that I have a personal concern above and beyond the lakes here because my district covers part of the Merrimack River and I would hate to see the day that the USCG claims jurisdiction over part of my district. I don't know if I have the forces to fight them, but you can be sure that I will call on you. I appreciate the opportunity to testify. Thank you.

Senator DURKIN. Thank you, Chris.

I think the USCG might realize they bit off a little more than they could chew if they tried taking over Ward 5. Thank you very much. Mr. SPIRO. Thank you.

Senator DURKIN. The next legislative member that I see here, Dave Souter is on his way over, but Senator Preston is here.

STATEMENT BY ROBERT PRESTON, MEMBER, NEW HAMPSHIRE STATE SENATE

Mr. PRESTON. Senator Durkin, members of the committee, in keeping with Senator McIntyre's wishes I'm not abiding by the 25 properties of paper prepared statements since I know he's trying to cut down the paperwork in the country, I evidently don't have the staff or the time on my \$250 every 2 years to prepare it so I'd just like to reemphasize some remarks that I made in a letter to you and other members of the Congressional delegation.

As you know, we attended that Washington hearing and expressed concern then about the takeover of the lake. I speak not only as the chairman of the Recreation Development Committee of the State Senate, but as a State senator representing principally the sea coast area where our experience with the USCG has been a disappointing one. We had for years a full time station down on Route 1A in Hampton, and this was phased out in the late 1960's, much to our regret. This was phased out on the basis of the USCG establishing a seasonal station down in Hampton's Seabrook Harbor. Lo and behold in the early 1970's they broke their promise or abandoned our needs down there and told us that because of economic reasons, because of shortage of personnel and new technology that we would have to depend on stations in Newburyport, Mass., Portland or Portsmouth. It was quite a shock to me as well as others down there to find that the USCG now could extend its supervision to include New Hampshire lakes, which were now being well run by safety programs which I think are superior to those under the supervision of the Federal Government when we're depending principally on our commercial fishermen or State fishing game to conduct search and rescue missions down off the coast where there is immediate need for help. We have over 90,000 people going in and out of the Hampton Seabrook Harbor area. We have over 400 pleasure boats as recently as last July, a Polish

fishing vessel came within 9 miles of our coastline, tore up the gear belonging to Mr. Herbert Drake of Rye. We contacted Washington; the USCG came out of Portland at the time and weren't able to locate this Polish fishing vessel.

I think that in my letter I have asked members of the congressional delegation to, now that DOT has made a determination temporarily to stay out of the lake, that if they now feel in the position that they can provide more services somewhere that I respectfully request the committee and members of the delegation to direct the USCG to spend its time where it belongs, principally to protect life and property off the coast where it's now doing only a fair job.

Recently we had a tragedy where we lost a lobster fisherman. They did respond; there was a lot of confusion and a lot of buck passing as to which station was to respond. I say this not in criticism of the personnel but to the bereaved family who weren't aware of the USCG regulations that said after 8 hours we presume someone dead, they failed to conduct a longer search. When questioned by yourself and Senator McIntyre as to why the search wasn't continued they said they counted the flotation gear and made the determination that the individual didn't make use of it and he is presumed dead. This is not too comforting to commercial fishermen in Vermont to conduct further rescue and the man has not been found yet.

I just bring that up as an example of the type of response we're getting, Senator Durkin, and I appreciate your concern in coming here. I'm hopeful that the USCG will stay out of the lake. We just got the resolution requesting that moratorium be called, but this never is to occur. But I appreciate the opportunity to come here this morning to tell you that if the USCG feels it wants more responsibility, we in our small coastline can give it the responsibility it needs if they'd at least give us a seasonal station to carry out protecting the 12-mile limit and look forward to the 200-mile limit maybe it'll protect our fish resources and our people as well.

I thank you for having me here this morning.

Senator DURKIN. Thank you, Bob.

I think that runs throughout the whole meeting, the whole procedure in Washington as well and the hearing in Senator McIntyre's office so they are meeting in Senator McIntyre's office. I think the USCG would appear that if they can meet their obligations along our coastline under the present budget constraints set forth by the officer's management budget, that they have their hands full and they ought to take care of first things first. I think the 200-mile limit would help. As you know, Senator Magnuson, the chairman of this committee, is from the State of Washington, and he has battled for 10 years to get the 200-mile limit. And as you know, the conference report has been adopted, and it is on its way to the White House. Hopefully that will solve part of the problem.

I think we have seen the same thing running through it. It's those bureaucratic rules of thumb saying that a person is presumed dead after X events occur. It's those same bureaucratic rules of thumb

that say the *Merrimack* is navigable all the way to Belknap County. That's the problem. But thank you, I do appreciate it.

Mr. PRESTON. I might add, Senator, that in one of the towns, in Hampton, the selectmen did pass a motion also requesting that we—that if any way you can influence the USCG through the members of the delegation to establish a seasonal station that they so request.

Senator DURKIN. Yes, we will do what we can and everything we can. We can't guarantee but we will do the best we can. Thank you, Rob.

The attorney general has a tight schedule and so maybe—we called him over—I didn't know you were coming, George—and told him he was next, if you don't mind.

Mr. SOUTER. Good morning.

Senator DURKIN. Good morning.

For the benefit of the people in the audience, the two gentlemen to my immediate—Sam Simon, to my immediate right, from the Commerce Committee staff, and Bud Walsh, from the Commerce Committee staff, and Hugh Jenks, who is on our staff and has been working on this USCG matter for some time.

Dave, as I said in my opening remarks, this is not an adversary proceeding. It's a very informal proceeding. We look at it as if this is sort of the plaintiff's case, the proponents, the people who want the USCG out of the lake. This is the day to make the record. Hopefully the Secretary's decision will be permanent, and again for the record, I would like to compliment your efforts. When the Secretary called me to tell me that he was relaxing the assertion of jurisdiction, he was very complimentary of you and your performance and your efforts.

Mr. SOUTER. The Secretary was as generous to me as he was his jurisdiction in the first place.

Senator DURKIN. Hopefully the decision will be made permanent, and if not, we will have a record for a court proceeding. And if the court proceeding—hopefully it's not needed—but if that fails and if the Secretary fails, then we will have a record to take to the committee and take to the floor. But it's an informal proceeding. We're here to accomplish one end, so we appreciate you're taking the time.

STATEMENT OF DAVID SOUTER, ATTORNEY GENERAL, STATE OF NEW HAMPSHIRE

Mr. SOUTER. As I explained to the members of your staff and Mr. Walsh who was here this morning, a complete study of the history that would bear on the questions of navigability of the waterways in question is a tall order and I will not pretend at all that we have completed that. We're in the middle of it and we've got a fair amount of work to do. Whether that historical record we're in the process of assembling is one which is going to convince the USCG not to make any further assertion, or whether it's one which we are going to have to use in court to try to enjoin any further assertion at this point, I don't know. As I explained when we did our talking on the telephone,

the vein which as I understood it you would like to hear this morning which I could go into, were the considerations which led the State of New Hampshire to assert before the Secretary that the determination which had already been made was in fact one which on its face wouldn't stand up if we had to go to court. I did make it plain at that point that if need be, we would seek to enjoin the USCG assertion of jurisdiction and we would have to do it fairly quickly because the ice is going to be out on the lakes pretty soon. So what I've come prepared to speak on is what I guess I would consider the basic points to which I took exception as matters of law and in some cases as matters of fact in what they've done up to this point.

I guess you have to start with the law and there are really four significant cases that bear on the problem we are in today. The power of the National Government under the Federal Boat Safety Act of 1971 and generally comes from its constitutional power to regulate interstate and foreign commerce. As far back as 1870 the Supreme Court of the United States has determined in probably its first significant decisions in the area of water commerce just how far the Federal power would extend. The determination was made in a case called the *Daniel Ball* which was the 77 United States 557 in 1870. In that case, among other things, the old English notion of crown jurisdiction confined to the ebb and flow of the tide was scrapped and in its place the doctrine of navigability was asserted. What that case spoke of, because that's all it had to speak of, was that the commerce power extended to waters which were navigable in fact and susceptible to navigation in natural conditions. The next step came in 1920 in a case called *Economy Light and Power v. United States* in which the Supreme Court declared a second test which bears on this and that is what, for shorthand purposes, we tend to refer to as the indelibility test. That is that once a waterway has in fact been navigable, it remains navigable forever after, even though it ceases in fact to be navigable. In that case I think there is some drainage and water sheds have been modified by lumbering so that in fact the stream in question is no longer for floating of anything. But the Court said since it had been once navigable, no question about it, it'd stay that way.

The third test, or the third case which established things during the period we're concerned with, came in 1940, 20 years later, in the case of *United States v. Appalachian Power*. In the *Appalachian* case the Court broadened the test of navigability or at least it appeared to do so, still further. For the first time, at least as clearly as it could do it at the time, it set forth the test that you can have navigable waters and hence Federal jurisdiction if in fact by means of reasonable improvement the waterways in question could be made navigable. Now that was the last significant pronouncement in the Supreme Court of the United States on that subject. There is one other case which probably ought to be borne in mind because it bears very directly on our disagreement with the USCG over the water in this case. I don't really think that the *Appalachian* case left the question up in the air. I think if you read it carefully it answers the question. But at least some people have raised the question whether this test of susceptibility to reasonable improvement was a test which you

could look to some time in the past and apply, in effect by saying for example in 1840 it would have been reasonable to improve the river or the lake or whatever, and hence we can judge it in this ex post facto way to have been navigable. I don't think that that is what the *Appalachian* case held, but in any case that was an issue.

Not in the Supreme Court of the United States but in the U.S. Court of Appeals for the Second Circuit in 1965, they decided a case cited as *Rochester Gas and Electric v. Federal Power Commission* and I think in that instance, the second circuit which is a good circuit so far as precedent goes, made it very clear what the test was when you are considering we'll call it the reasonable improvement test. I think, by the way, at this point I might just as well stop calling it the reasonable improvement test and call it what most people now do, and that is the cost-benefit test because as far back as the *Appalachian* case they held that what is a reasonable improvement depends on what you get for the money, and that in effect is the cost-benefit test which the Corps of Army Engineers at least purports to apply in determining what would be a feasible improvement. What the second circuit held in the Rochester case was that you have a tripartite test to determine navigability and hence the extent of Federal jurisdiction. First, the first possible test is that the waterway in question was in fact used or was suitable for use to carry goods in interstate or foreign commerce. The second test is that the waterway is at the present time actually used or suitable for use with the same purpose, to carry goods in commerce. And the third test, which makes very clear just how you apply the cost-benefit notion here, is whether the waterway at some time in the future could be improved on a cost-benefit analysis so as to make it worthwhile to make it suitable for use in interstate or foreign commerce. So that if in fact, what it comes down to, if your waterway isn't being used now and never has been, is it now in a condition to carry commerce and never was in a condition to carry it, the only way you can make that into a navigable waterway for the purposes of Federal jurisdiction is to apply or to answer the question in the affirmative when you say, "Would it be reasonable on a cost-benefit analysis to improve this waterway so that it could be used?" Now what the USCG has done when they made their written determination, which they announced on September 2 of last year, was in my judgment to misapply the cost-benefit test. They said right on the fact of that determination which went on, by the way, for I think about eight or nine single-spaced pages, it was quite extensive, they said right on the face of that written determination that in fact the reasonable improvement or the cost-benefit test or however you want to describe it, could in fact be applied to some time past. And if it was applied successfully to some time in the past, then even though—and they didn't put it this way, I'm putting it this way—even though a matchstick has never passed from one end to the other end of the waterway in foreign commerce and never could have, nonetheless the waters are navigable. I took exception to that in my discussions with the USCG and with the Secretary of Transportation. Once you make that kind of a mistake it leads you into further problems because you start adducing facts which are being applied

to the wrong test, and that too happened in this instance because having first made the determination that you could apply a cost-benefit test sometime in the past, the determination then went on to dwell at some considerable length on the conditions and the times in the past when you could have applied it. I'll give you a specific example of what they dwelled upon.

I suppose everybody involved in this present controversy knows that Lake Winnepesaukee is higher than nature made it right now because of the dam at the southern end of the lake. At the southern end of the lake there was among other things cotton manufacturing in the 19th century so that there was industrial usage as far back as that time.

It may be—I'm not sure that it was and I'm not stipulating that it was—but it may be that prior to the coming of the railroads and highways it would have been worthwhile to try to make more navigable waters. In any case, at least some people thought so. And the USCG, under the misapplication of the cost-benefit test, the USCG alluded at some length to a statute which was passed by the New Hampshire Legislature in 1796 which is set out in section 298 of the New Hampshire law. What that statute did was, in effect, to enfranchise the canal company and their objective and the condition of their franchise was that they would create a continuous waterway from Hooksett Falls to Lake Winnepesaukee. It's interesting to note parenthetically that that franchise did not speak of improving the Winnepesaukee River or any other river. It spoke of creating canals and if all you do is bypass an entire water system with a canal, you don't make that water system navigable any more than if you built a super highway next to it. Leaving that question aside, the USCG dwelled upon the fact that at least in 1796 someone wanted to make a waterway from Hooksett Falls to Lake Winnepesaukee. Now in fact, that series of waterways was never made. The canals were never built and they weren't built, I guess, primarily because the railroads came along before they could get them built; whether they ever would have been without the railroad, I don't know. Probably no one does at this point. But the fact is they never were. If you want to refer to that as an improvement, if you want to assume that the effect of that improvement would have borne on the question of navigability, the fact is the improvement never came. Now if you can apply the cost-benefit test retroactively, and if you can make the assumption which again the record does not warrant that cost-benefit really would have been served by this—these guys might have gone flat broke, we don't know; the legislature never made a finding. But if you leave that question too aside, then the USCG said, "We find that somebody applied a cost-benefit test back in 1796 and hence the waters became navigable." Why does that determination rest upon a definite mistake of law? The facts, if you once realize that, the facts become irrelevant and as I said I concede that some of the subsidiary assumptions of fact simply are not borne out. We don't know whether there was a cost benefit. We don't know whether it would in fact have made the waterways navigable. So that took some of the underpinnings out of the USCG's case because there is no way that you can contend

that you've got a continuous, navigable waterway from the northern end of Winnepesaukee from Newburyport except by going down through the Winnepesaukee River, and you can't do that now.

There were other factual problems with the determination and I really didn't have to dwell on this very much. I think this was the real point. But the determination referred, among other things, to the fact the Winnepesaukee River or the assertion that the Winnepesaukee River is not navigable now because of the existence of those dams and artificial structures in there. Well, that would be relevant under the Economy Light and Power test for the indelibility. The trouble was that it's quite true there are dams and structures across the river, but the river also has a drop of approximately 184 feet, give or take about 20 feet, in less than 8 miles and that's quite a drop. In the discussion, not that this proves anything one way or the other, but in the discussion in the *Rochester Gas* case I think the river had a drop of approximately 3.4 feet per mile so you have a meandering stream being considered as navigable there. Here you've got white water.

The USCG referred to the fact that in 1932 the State of New Hampshire consulted with the corps before it built the—I won't say the original Mosquito Bridge, but at least the one that was replaced a couple of years ago—and they said the fact that the Army Engineers were consulted and gave approval to it involved an administrative finding for their purposes that the waters were navigable. In point of fact, we inquired and no record can be found by the USCG that in fact the navigability determination was made. We also know that in 1932 there was a mail boat operating through that channel of water and the more reasonable inference is that the State wanted to make sure the mail boat wasn't going to cut off or be cut off and we weren't going to have a fight with the United States over that so that it's equally consistent with that fact to assume that the Federal Government was operating under the postal power rather than commerce power at the time.

And as I said to them, we could go on and pick out other factual problems with the determination. I think the fact was at that time having brought out as much as we did, they believed that they should read them and the Secretary and the USCG mulled this set of propositions over for a couple of days and decided they'd better revoke jurisdiction and consider the matter anew. That's where we are now.

Senator DURKIN. I understand, sir, that there is in the record or the paperwork which has followed the USCG's activities that there is a conflict within the USCG itself. All the USCG people are not convinced of their own, the merits of their own case.

Mr. SOUTER. I have heard that. I haven't subpoenaed anybody before me to find out whether I could prove that if had to, but I have heard that.

Senator DURKIN. Your next step is to sit down again with—is DOT planning any authorized presentation for your office or—

Mr. SOUTER. I don't know exactly what their plans are at this point. It hasn't been set down in any formal document, but in our discussions we have agreed that if the USCG does in fact go forward and

prepare to make a further determination, it's going to consult with the State and I've told them that if they wish to do that, we're not going to be in the business of hiding evidence and we'll certainly be cooperative with them in telling them what we've got.

Whether in fact the USCG is going to make a further determination at this point, I don't know. I haven't had further conversation with the Secretary since a week ago Monday and after a period of time if I don't hear from him I'll probably inquire myself. We are moving ahead to be ready for either eventuality. Of course if the USCG came along and said, "We've looked at the material that we've got and we're convinced that we are not going to make out a case." then we'd shut our file and go on to something else. But they haven't said that.

Senator DURKIN. In informal discussions the DOT has indicated that they hope to have a decision fairly soon. Of course fairly soon leaves the possibility it may be an awful long time in Washington.

Mr. SOUTER. Well, if they do intend to reexamine it and they feel that there is an issue, I would—perhaps goad is not the right word—but I'd like to persuade them to make a speedy job of it. We would certainly commit the manpower that we could to move this along.

Senator DURKIN. There is a 1965 Federal district court case, *Marine Office of America v. Manion* that said for purposes of the admiralty courts anyway, that Winnepesaukee was not navigable. Do you think that case helps us or is it essentially irrelevant?

Mr. SOUTER. I don't think it's irrelevant either as a matter of law or as a matter of USCG rights. The USCG's own regulations provide that they will give weight to the determinations of other agencies so that they would be certainly under their own rights. They would be bound to give this consideration but I suppose in theory they are not precluded by that determination any more than the seventh circuit is precluded by a second circuit determination. They can make their own. It certainly has a bearing on the ultimate resolution of the issue if we have to litigate it.

Senator DURKIN. Is there any way that the New Hampshire delegation or the Senate Commerce Committee, is there any way we can assist you? If there is, I mean if you don't think of it now, if you think of any way as the days unwind, please take advantage of the offer. If there's anything we can do within the confines of the law, we will be happy to.

Mr. SOUTER. Well, of course if you could succeed in getting a bill through which definitively as a matter of law denied the USCG jurisdiction up here, we wouldn't have to worry about navigability any further. It doesn't follow from the fact that the commerce power may extend to a given or be capable of being extended to given geographical points that in fact the Government has to exercise the power that far and so if the legislative rug can be pulled out from under the issue, that would be fine. I wouldn't voice any objection to that.

Senator DURKIN. I would suspect that the history, there are a few twists and turns in the history of the act itself, but to get an exemption we'd have to go that route. Hopefully we won't. But Senator Humphrey tried to do the same in Minnesota when he was democratic

whip. Even as a member of the leadership he had difficulty getting it. So, hopefully the Secretary will see the case as clearly as you do, as clearly as everyone in the room does and it will be resolved there. But I do appreciate your taking the time out of your very busy schedule. I do most sincerely make the offer, if there's any way we can help; research, the Library of Congress, the Congressional Research Service, what have you, if there's any way we can help, please notify us.

Mr. SOUTER. I would let you know. Thank you.

Senator DURKIN. OK. Thank you, David.

Robert Whalen's here, George Roberts, the group from the lakes region in Washington, John O'Connell, Richard Kelley. Is there any other group or individual that wants to testify today?

Do you have a statement or are you winging it?

Mr. ROBERTS. Well I have a statement and I'm winging part of it because I'm not aware of what you've heard before.

Senator DURKIN. No problem.

Mr. ROBERTS. So if there's duplication, just stop me.

Senator DURKIN. No, no; go ahead.

STATEMENT OF GEORGE ROBERTS, JR., SPEAKER OF THE NEW HAMPSHIRE STATE HOUSE OF REPRESENTATIVES

Mr. ROBERTS. I think the problem you're facing here is that how you, as U.S. Senator, and your committee and your legislative body, can help New Hampshire resolve a problem which, going beyond the ridiculousness of their claims of navigability, creates some problems in our own legislature.

It's been my contention all along that there are two distinct elements to the issue of jurisdictional control over the inland waters of New Hampshire. First, the legitimacy of the Federal claim. After Mr. Souter's testimony I think you can see there's a position that they really don't have a legitimate claim despite the fact that they have built canals from Winnepesaukee Lake to the sea coast or to certain falls.

The second is the environmental and economic cost to the State of New Hampshire because of this Federal claim of navigability.

The first issue must be resolved by either Congress or the courts. I think a moratorium, although it's welcomed at this time, is not going to resolve that issue in the minds of the people of New Hampshire. The citizens of New Hampshire have demonstrated beyond doubt that they are opposed to the arbitrary Federal pressure and presence on Lake Winnepesaukee and on Lake Winnisquam and the connecting waterways. Myself and other members of the house sponsored a resolution, House Resolution No. 1 which passed unanimously with no dissent in the house to indicate New Hampshire's sentiment to Congress, to provide a vehicle for legislation on the State level and to minimize the impact of the Federal takeover.

The New Hampshire legislature's very interested in passing good boating laws. And again here's where the Federal claim creates a problem for the State of New Hampshire. There have been attempts in the past to pass a uniform numbering act which has been sponsored by the USCG and has been adopted by all of the States except

the State of Washington and the State of New Hampshire. This may or may not be in the best interest of the State at the present time, and a sound decision can be made only after careful analysis by the legislature and the appropriate State and Federal agencies. This is very difficult to accomplish until the smoke clears from the original USCG determination. By using concurrent jurisdiction as an issue, the sword the USCG has done much to discredit the proponents of a uniform numbering act.

A new numbering act, whether dual or uniform, may bring in more revenue and here is a list of some of the other factors that we must weigh in the legislature before making that decision: the environmental and economic impact of increased lake traffic with a uniform numbering act, the dollar amount of license fees under the restructured system whether it be greater or less, the enforceability of a USCG approved numbering system on Winnepesaukee but not on all other lakes, and the State's authority under the approved numbering act within the other lakes in New Hampshire and Winnepesaukee and Winnisquam and their waterways.

The contention that if the USCG comes and assumes jurisdiction that you can have a dual registration act would only amount to mass confusion for those people who generally register their boats for use on other lakes but want to use Winnepesaukee and Winnisquam and for those people from other States who have the USCG registration who would use Winnisquam and Winnepesaukee and want to use temporarily the other lakes.

So after and only after all the details have been discussed can we on the State level rationally determine a new policy. In this area there's no room for political badgering by the Federal Government, but I do congratulate Secretary Coleman for his recent declaration for moratorium and we hope all of us will work together. I'm sure that the jurisdiction of the lakes region shall remain forever under the sole authority under the State of New Hampshire.

I hope in Congress that you will be able to convince your colleagues that to solve this problem once and for all we must have a Federal act. I'm aware of what Senator Humphrey tried to do one time; however, I think the public attitude about a bureaucratic bumbling is perhaps out front in the minds of many people in this State and Nation and I think perhaps that your colleagues and again Senator Humphrey would join you in trying to straighten out this bureaucratic bumbling once and for all. I understand and I recognize and I have respect for all the legalisms as to what their claims are, but I think Mr. Souter and his explanation of why they really don't make sense to New Hampshire people should also be a convincing argument to your colleagues.

Winnepesaukee and Winnisquam really do not meet the test. We would hope that you could convince the Congress to pass an act even though this temporary moratorium has given us temporary relief. It doesn't clear the way for our legislature to make a determination on the registration systems we'd like to use. I think most people, after they analyzed the differences, might come down on the side of the uniform registration act which the USCG would approve of and

there would be some vast benefits. But under the present situation, even with the moratorium, we in the legislature do not really think that we can go ahead with a change in that registration system while this waves over our heads and I'd like to ask you to help us. I know you're making this attempt for this public hearing to help us to get this message to Congress and ask them to change the act.

Senator DURKIN. Thank you, George.

As I said earlier, I don't know whether you heard or not, hopefully the Secretary's determination will become permanent. I think that deals especially with the work Dave Souter's done and that the Federal court case saying Lake Winnepesaukee was not navigable. The second best avenue is a Federal court decision because most of the decisions—the navigability decisions—are based on court interpretations, which wander all over the landscape. If all else fails, hopefully we can convince Congress. There is a growing sentiment in Congress, not necessarily specifically with reference to this bill, but a growing sentiment that what can best be done at the local level, is being done well at the local level, should be left alone. The old story of the lowest level of Government that gets the job done should be the highest to get the responsibility.

One of the problems with the legislative route that makes actions on the Senate floor or in committee much more difficult is the fact that in 1970 and 1971, New Hampshire officials requested that the State be covered by the Federal Boat Safety Act of 1971. There was some argument over whether a couple of States should be excluded from the act, but New Hampshire officials wrote to the Committee and requested specifically to have the State included under the act. So, that complicates the legislative route.

Mr. ROBERTS. The only reason I say go the congressional route as far as the change in legislation is concerned, is that it's been said that the moratorium doesn't necessarily have to be forever, and the agency's decision wouldn't necessarily be forever. I would think that any administrator would be a fool to reverse it if they did come down with a finding that way. However, I think we want some guarantee that won't happen in the court route. But quite frankly, I think it's an imposition on the State to have to fight the Federal Government, to take our money, our time and our talent to devote it to that, to fight a Federal agency that on its surface just by a visual observation of what that waterway looks like is not a navigable entrance to Lake Winnepesaukee.

Senator DURKIN. The only way to make part of it navigable is to pave it. I think you pointed out to the record, George, that if the Secretary makes a determination, that probably the determination will be binding on other agencies. That will carry an awful lot of weight. It's not a determination of navigability, hopefully. It's not something that if there is a change in administration in Washington in January, a new Secretary of Transportation could come in and say, "I don't like the fact that ***" and change it.

Mr. ROBERTS. Even if we ask for another bridge to be built?

Senator DURKIN. As I say, the offer if we can help—

Mr. ROBERTS. Fine.

Senator DURKIN. Anything, let us know.

Mr. ROBERTS. Sir, we appreciate your appearance in New Hampshire in the State capitol to give us an opportunity to testify.

Senator DURKIN. Thank you.

Mr. ROBERTS. Thank you.

STATEMENT OF ROBERT WHALEN, DEPARTMENT OF SAFETY

Mr. WHALEN. Thank you, Senator. I'm here representing the department of safety and Commissioner Flynn who would have been here but he's testifying across the street on a bill which he has entered in the special session of the New Hampshire Legislature.

I guess my role here today is to respond directly to some questions which Senator Magnuson asked to be put into the record as far as facts and figures and if everyone will bear with me, the first question that the Senator posed was a brief history in order to help you and the committee in its deliberations in this matter and some of it might prove to be interesting in addition to being helpful.

1881 was the year when the New Hampshire Legislature enacted the first law for inspection of public boats. It was for a good reason; there was a near sinking of the rebuilt steamer Winnepesaukee in 1880 off Rattlesnake Island. In 1889 the legislature made its first appropriation of \$1,000 for some buoys. In 1915 an act was passed which gave control to the public service commission; this was the forerunner of the public utilities commission as it was known in those days, and that act required the licensing of private crafts. The next year, 1916, was the first year of private registration and it is interesting to note that the number of boats was 1,509 and the registration fee was a dollar, and the total fees collected was \$1,509.12 and we can't figure out where the 12 cents came from.

In 1939 the State started placing its first flashing navigational lights on the public waters. I think it's interesting to note that the first ones were placed on Winnepesaukee and Winnisquam because of the importance of those two bodies of water in relation to the use and in relation to the other ponds and lakes throughout the State. And in 1961 the legislation was passed which created the department of safety and boating safety went then from the public Utilities commission, which the public service commission was then called, to the department of safety and specifically within the division of safety services within the department. Incidentally, I have for the committee a copy of all of these facts.

Without going into the individual figures since that time, to get a clearer picture of the numbers of boats we're talking about, and there has been some confusion in this regard, in 1965 there were 40,790 boats registered and in 1975, 44,340 which was a very slight decrease from 1972, 1973, and 1974. In 1971 it reached its highest 47,322 in 1970. So in round figures we're talking about revenue, the numbers of boats which presently come under the statute and have to pay a fee is approximately 45,000.

In answer to the next question posed to our office as far as the registration fee schedule, there are two different schedules. One applies to outboard motors and is based on the horsepower: 5 horsepower

and under is \$4; 5.1 horsepower to 13.9 horsepower, \$5; 14 horsepower and over is \$6. The inboard motors are charged according to their length: 18 feet and under, \$6; over 18 feet to 26 feet, \$9; and over 26 feet, \$11.

Senator Magnuson was very specific in asking about the total budget, the numbers of dollars spent in the past few years and at the present time within the division of safety services and also the revenues. The total revenues from boat registrations in the fiscal year ending June 30, 1975, \$264,450.25. We are estimating the revenues for fiscal year 1976, that's the New Hampshire fiscal, the legislative fiscal year, budgetary fiscal year, of \$258,993.50. Now fiscal year 1977, \$247,800.50. Our expenditures for the same program for the fiscal year ending June 30, 1975, the expenditures and appropriations were not exact. The appropriations were \$293,248.48. We lapsed a little over \$11,389.53. The appropriation for fiscal year 1976 is \$266,437 which is a drop of approximately a little under about \$27,000 rather over 1975 and the appropriation for fiscal year 1977 is \$267,541.

Senator Magnuson also asked the question as far as Federal boating grants are concerned. One Federal boating grant which you grant from June 18, 1974 to November 1, 1976 in the fiscal year ending June 30, 1975 was \$46,410. We had a carryover to fiscal year 1976 from that grant of \$8,688.06. The Federal boating grant No. 1501-33, which we have just made application for renewal for the fiscal year 1976 is in the amount of \$35,517. I should state that this Federal boating grant has decreased from around \$50,000 down to its present \$35,000. I think probably it should be entered at this time that the Federal boating grant is a three-phase grant, if you want to use that term, because of the fact that New Hampshire has not adopted the Federal numbers system or the Federal boat safety regulations then New Hampshire qualifies for approximately one-third. So that follows the statement by Commander Womack and other representatives from the USCG that if New Hampshire were to adopt the Federal boat numbering system that the increase would be approximately \$70,000 bringing it up to \$100,000 which I think is a true statement and a fair statement; we would qualify then for the additional two-thirds. So the increase in revenue by the adoption would be \$70,000.

Now what about the loss in revenue? A lot of figures have been kicked around. It's just someone's best judgment, an arbitrary judgment at that, as to how many of the boats of the 45,000 that New Hampshire now registers are used exclusively on the bodies of water which are listed in the declaration of navigability so that if you used a round figure of 250,000 and said or made a guesstimate that 50 percent of the boats that we register are, in fact, used exclusively on those bodies of water, then you could determine that our loss would be \$125,000 in fees. If the legislature does not adopt the Federal numbers system, then it's fair to state that that would be approximately the loss in revenues. If the legislature did adopt the Federal numbering system, depending upon the fee schedule which was written into that legislation, then if we did pick up the additional two-thirds of whatever boating grants money were available,

we would still come out with a net loss provided that the legislature did not adopt the fee schedule which was, No. 1, higher than the one we charge now, and No. 2, if it was acceptable to the Coast Guard, which it has to be before you can charge it. And I hope I've answered that part of the revenue question.

Senator DURKIN. Let me ask one question there, Bob.

Mr. WHALEN. Yes, sir.

Senator DURKIN. So the revenue question may well be a wash, or New Hampshire may well pick up revenue if the USCG's assertion of jurisdiction stands up.

Mr. WHALEN. I think the answer is yes.

Senator DURKIN. In any event, there won't be any loss, financial loss and an added financial burden to the New Hampshire taxpayers as based on your testimony.

Mr. WHALEN. And that would be dependent again on what action the legislature took. If they adopted the dual numbering system or if they adopted the Federal numbering system because it's a legislative matter; we would make some recommendations at that, but I'm just working for a week's pay so I'm in that position where what we're saying to the legislature we can live with whatever you adopt. If you adopt the Federal numbering system, the Department of Safety can issue the decals or issue the plates or issue the numbers and collect the fee, whatever they charge us to do. So we don't have any problems in carrying out the program. If 48 out of the 50 States are doing it, we think we can do it, too. There's a possibility that if the fee schedule were high enough and was acceptable to the USCG that in the end perhaps we could get more revenues than we're getting now in addition or taking, coupling that with the fact that hopefully we would get the additional two-thirds of whatever boating grant moneys were available.

Senator DURKIN. So I gather, in essence, you agree with Marshall French that the loss is not a revenue loss but the loss is a relaxation in safety standards—

Mr. WHALEN. Safety standards and pollution standards—

Senator DURKIN [continuing]. Environmental hazards—

Mr. WHALEN. Incidentally, the Department is on record as agreeing with your statement, Senator, the statement of Mr. Roberts and the statement of Representative French as read here today and published.

Senator DURKIN. Thank you.

Mr. WHALEN. I should state that legislation was written and not much has been made of this for introduction in the last regular session of the New Hampshire Legislature without a number or without a sponsor. I have a copy of it here which I'd like to make a part of your record.¹

Senator DURKIN. Sure.

Mr. WHALEN. Because there is, what I think, a significant letter directed to Mr. Alton Stone, the former Director of the Division of Safety Services from Commander Raymond Womack, which gives basic approval of the proposed new boat numbering legislation with

¹ See p. 62.

one minor correction because there was a reference to the Federal Boating Act of 1950. I know, of course, it was changed to the Federal Boat Safety Act in 1971. I think it's interesting in Commander Womack's letter he says, and I quote, "When the proposed law is approved by the legislature," a big assumption on his part, "it should be submitted in accordance with title 3, Code of Federal Regulations 174.7, which states in part that an authorized representative of the State must submit three copies of the State laws, regulation forms and policy statements, if any, that pertain to the numbering system or revision to the USCG, Washington, D.C. If this can be done prior to July 1, 1975, there is a strong possibility that additional funds—about \$40,000—can be made available to you from the fiscal year 1975 Financial Assistance Program." The legislation was not passed and I don't want to make a statement on that but there is an indication in writing that the additional funds in that particular case, in the amount of \$40,000 for only 1 fiscal year, would have been available had the legislature passed that particular piece of legislation at that time.

In conclusion I want to read some of the activities on the lake which Senator Magnuson has asked for in his letter, and I'd like to get this on the record to prove that the department of safety services, within the parameters of the money given to it by the legislature, is in fact doing a good job, is in fact patrolling the lakes, with what I consider to be very limited funds. We have 72 seasonal boat inspectors. We have three seasonal radio dispatchers, three year-round maintenance men, three year-round administrators, a year-round steno, and a seasonal receptionist and steno. We have 36 State-owned patrol boats, 38 privately owned boats rented by the State; we have 16 State boats with radios, 11 of these boats have communications with marine control; we have four boats with communications with the State police, two boats connected with Sullivan County and one boat with Grafton County, one with Carroll County, and one with Belknap County. We have 11 boat trailers; we have two education vehicles; we have three radio equipped cruisers; we have an International four-wheel drive truck and a Ford van, and a large boat-house and a dock complex on Lake Winnepesaukee.

I think the record also should show perhaps if someone could testify as to the facts and figures, that Water Pollution and Fish and Games also have boats and personnel on Winnepesaukee and I'm not prepared to say in what numbers or what their activities are. The committee might want to have some input from those two sections as to what they do.

The New Hampshire Department of Safety maintains patrol boats on Winnepesaukee from ice-out in the spring to ice-in in the fall. As soon as the ice is out in the spring, the work boats and crews start maintenance work immediately. This involves installing lights and replacing damaged buoys. Also any buoys that have been moved by ice action must be repositioned. This boat is radio equipped and answers complaints at this time. At night we have men on standby at their homes on a 24-hour basis and can usually have a patrol boat moving in 15 minutes or less. Patrols usually start Memorial Day

weekend and increase to 12 full-time patrol officers and three full-time dispatchers by the 13th of June. At least five radio equipped patrol boats are on the lake from 8 a.m. to 1 a.m. the following morning 7 days a week. When these boats are in their areas, we can dispatch one to any spot in the lake usually in less than 5 minutes.

On holiday weekends and some evenings patrols may be run round the clock. After Labor Day, patrols begin to taper off until Columbus Day, when patrols are only run on weekends. Here again the work boat and crew cover in the daytime and men are on standby at night.

On Lake Winnepesaukee we have eight 22-foot century inboard patrol boats, a 26-foot steelcraft work boat, a 15-foot crestline outboard construction boat. On Winnisquam we have one 22-foot century inboard patrol boat. At least five daily patrols are maintained on Lake Winnepesaukee. Patrol boats and patrolmen are available and on call 24 hours a day.

Navigational aids: On Lake Winnepesaukee we have 77 lights and 534 16-foot buoys. On Winnisquam we have 13 lights and 64 mixed 8-foot and 16-foot buoys.

Now, activity on Lake Winnepesaukee: In 1975 we made 2,276 recorded stops on Lake Winnepesaukee. We made 15,683 radio transmissions; we received 3,503 phone calls at the boathouse; we investigated 21 accidents; we aided the general public 135 times; we aided other departments such as Fish and Game, investigating drownings, et cetera, 101 times and we answered 407 complaints.

Senator Magnuson asked for a list which I will not read and will present to the committee of the number of citations and so forth. I have all of that information available. The accident summary shows that a decline in the past 4 years—for instance, in 1972 there were 12 fatalities; 1973, 10 fatalities; 1974, 9 fatalities; and last year only 4 fatalities. Hopefully in 1976 there will be zero fatalities.

The position of the department, Senator, I want to make sure that I mention that because probably as an oversight, I haven't heard it referred to, but I want to refer specifically to the two pieces of legislation: H.R. 5630 and the department is on record as supporting the legislation and Senate bill 2314 introduced by you, Senator, and for Mr. McIntyre we certainly support both pieces of legislation and want the record to show that.

In closing, I would say that the department of safety has not changed its position. We do not want the USCG there; we do not think that the USCG belongs there, and we think if the decision of navigability is not reversed entirely and simply on a temporary basis, it is going to pose serious problems to our complete operation. What the legislature does and what we will recommend I think is another matter. I think that we should really address ourselves to the declaration of navigability and the substance of it and the legality. I was going to touch on some points but obviously the Attorney General touched them much better than I could. I want to make it plain that as far as the department is concerned, the reasonable improvement test was—the Attorney General referred to it as the cost-benefit test—indicating the practicability from a financial standpoint, I think has been stretched to its furthest imagination by the

people who made what is in effect as you know a legal ruling. I think they have taken advantage of the Constitution and the Interstate Commerce Act in transferring the facts of the matters in the Appalachian case or some of the other cases in which the Supreme Court has ruled, and applying whatever findings there were in those cases to Lake Winnepesaukee and Lake Winnisquam. We object very strenuously to the old maxim that they apparently used, once navigable always navigable.

We think that there are other considerations. The lake is frozen over for 5 months. What do you navigate during those months? No consideration of that. The fact that immigrant labor could have been used in the late 1800's to build a canal to the city of Portsmouth or to the Merrimack and out by Newburyport, Mass., if it was financially feasible and it is not now, we don't think that that should hold true.

In any event, the Department appreciates the invitation from you and Senator Magnuson to testify and again, we're ready to cooperate in any manner possible and I hope that the information that we have is sufficient. If not, the staff can request it, and if it is available, we'll make sure that you have it. I'd like to leave a copy of these with the committee. There's additional information which I didn't bother to cover here because I didn't think it was necessary.

Senator DURKIN. Fine. Thank you, Bob.

Again, anything we can do, and you might not think of it today but in the days ahead, I'm sure I speak for the whole New Hampshire delegation, please contact us.

I think you put your finger on it in replying to the testimony this morning. We had a bureaucrat operating in a vacuum, and the thing got a life of its own; and then someone else spotted it and said, "Hands away to claim jurisdiction." Starting with the bottom line, then work your justifications backwards so hopefully they're all back to zero and the Secretary will reaffirm we're back to zero.

Thank you. We appreciate your taking so long.

Mr. WHALEN. Thank you, sir.

Senator DURKIN. In keeping with the schedule we set up earlier, I think at this time maybe we could get one more chair and if Dick Kelly, Scott Bracken, and John O'Connell, maybe if you want to testify as a panel or whatever, all three together and help each other or split it up.

Mr. BRACKEN. Each representative has different areas to cover.

Senator DURKIN. OK. Maybe we should take a 5-minute break or we're going to lose the stenographer.

[Recess.]

Senator DURKIN. Dick, if you want to proceed.

STATEMENT OF RICHARD KELLY, PRESIDENT, LAKES REGION CHAMBER OF COMMERCE

Mr. KELLY. That's fine, Senator Durkin, members of the committee, I am Richard Keelly, president of the Lakes Region Chamber of Commerce and the chairman of the Fresh Water Lakes Committee of New Hampshire. The latter being a committee with concerned

citizens including members of various chambers of commerce, clean water association members, and marine dealers with its main objective to stop the USCG takeover of the freshwater lakes in New Hampshire.

Let me first speak to the word of navigability from a report entitled "State of New Hampshire Water Resources Report and Review" dated January 1957:

An engineering study reports the control of flood discharge on Winnepesaukee River in New Hampshire prepared by the Corps of Engineers, U.S. Army Officers, Division Engineers, New England Division, Boston, Massachusetts. The scope of this study is to study the possible increase in maximum permissible discharge from Lake Winnepesaukee to the Winnepesaukee River. The Winnepesaukee is a major tributary of the Merrimack River and is a non-navigable meandering stream with several lakes. Considerable industry and many privately owned dams spine along its route. The river lies wholly in the east central section of New Hampshire and flows in a general southwesterly direction from Lake Winnepesaukee to the towns of Belmont, Tilton, Northfield, and the cities of Laconia and Franklin where it joins the Pemigewasset River to form the Merrimack River.

The report goes on to report the cover of depths as far as discharge allowability. The point here is when this report was submitted back in January 1957, the engineering group at that point stated the Winnepesaukee River is a major tributary of the Merrimack River and is a nonnavigable meandering stream.

In reviewing the 1971 Boat Safety Act which clearly shows a long line of discrimination against States like New Hampshire whose boating regulations far exceed the Federal guidelines. We must now be penalized for having a much better program. In this day and age of environmental control you must now remove the State's guidelines which the USCG admits are better regulations than those required by the 1971 Boat Safety Act.

Now this morning a great deal of discussion has been brought out on the gain and the loss of money from registration of boats. But what about the loss of moneys because of pollution? Well in Washington with our congressional delegation I asked the chief USCG liaison if the State of New Hampshire, the first State in the country to require holding tanks in boats with galleys and heads, can be allowed to continue requiring those to maintain holding tanks to preserve the quality of the lakes. The USCG officer stated USCG regulations are preemptive. Make all the laws you must; you cannot deny anyone the registration because their boat's discharges goes directly into the lake. Why then, have we spent millions of dollars of State and Federal money on environmental protection programs to keep these lakes clean, clean enough to drink. It seems hideous to have spent all these moneys and now we are expected to walk away and allow these beautiful bodies of water to become polluted by discharge into the water.

What effect will be pollution of these waters have on the State's economy; tourism, recreation, people's taxes, jobs in the State of New Hampshire. From figures published from fiscal report ending 1974, the State received the following from the tourism and recreation field:

Tourism provided \$94.7 million for the state and local government in taxes. Tourism provided 24.3 per cent of all public revenue. Tourism employs 30,000

citizens in the state. Tourism collected \$422 million in 1974 in the State of New Hampshire. Tourism directly involves 5,500 businesses. Tourism itself is a massive return on a small investment: for each one dollar spent by the State in 1974, they received back \$400. The state ranks seventh in the country with regard to the impact of tourism on the state's economy.

What portions of these moneys would be lost by the State because of the loss of tourist trade in the lakes area because of polluted waters? I can only say a great deal of money, a lot of jobs, and an immense amount of taxes.

What of the many thousands of homes on the shorelines and islands of these lakes? Are they expected to get up and walk away, leaving their invested interests in their homes because the lake becomes deteriorated to the point that they could not longer use the waters for drinking, swimming, fishing, or relaxation. No; I feel these people have the right to file a class case action suit. To protect their environment, what authority would they have to be forced to go to for repairs on docks, lake fronts; any approval whatsoever regarding the lake? What about the hotel, restaurants, and attraction owners? They'd be forced to close their businesses; not sell them, because who would want any property along a polluted lake?

The lake area presently, we have the second highest unemployment rate in the State. Are we trying to make it the highest in the country? What about the marine use? These individual owners of small businesses rely on part-time people. Now an employee, if a client comes in to show and has decided to take a ride in the vehicle, the employee must have an approved USCG pilot's license. Now this license requires a minimum of 365 days of service on the lake itself before they can apply for the license. Now in this particular case, most of the marine dealers hire part-time employees during the peak season of May through September.

In talking to new industries regarding relocating their businesses to the lakes area, many do so because the lakes afford them the luxury and the close proximity to the lake itself. When you hear the word "USCG" you immediately think of a group responsible to guard our coastal waters, not our inland lakes. There is a far greater need for protection of life and property on the seacoast than having the USCG interfere in New Hampshire lakes where the State is doing a good job.

In fiscal 1975-76, the USCG asked for a \$300 million budget. The office of management cut their budget to \$171 million and this does not include the new program of the 200-mile limit off the shore.

We'd only ask the USCG to put more of their efforts into preventing foreign fishing vessels from harassing our fishermen and protecting people where needed. The USCG does not have the moneys or the manpower according to their budget to do the job that is required to maintain these lakes.

The State of New Hampshire Safety Department has proven their ability to do the job and do it well by keeping our waters safe for boaters while preserving the qualities of the lakes. We ask that the sovereign rights of the people of New Hampshire to maintain these lakes be returned to us on a permanent basis.

Thank you very much, Senator.

Senator DURKIN. Thank you, Dick.

Again, I appreciate your concern, your interest and your hard work in keeping this matter alive. I can't help but agree with you that I think it's the same thing they said in Washington that if the USCG has limited funds, and everyone has limited funds this year, they ought to take care of first things first. The 17 miles of the coastline is much more important, I think, than a bureaucratic assertion jurisdiction over the said area. As I said earlier, I think they misread the 200-mile limit; it's 200 miles going the other way, instead of coming in the 200 miles.

Thank you again. The door's open. You can contact my office through the hotline number and the Manchester office is in contact innumerable times a day, so if there's anything you think of we'll leave the record open.

Mr. KELLY. Thank you very much, sir.

Senator DURKIN. If I can make one departure, Mr. Walker indicated that he has got to get out of here and get back.

STATEMENT OF JAMES WALKER, PRESIDENT OF THE LAKES REGION CLEAN WATER ASSOCIATION

Mr. WALKER. Thank you, Senator. I appreciate your accommodating yourself to my time schedule and I really didn't feel you were under any obligation to do so and I am appreciative. Like a lot of people, I have to work for a living and sometime or other between these types of operation I have to fit in time to attend to my livelihood.

I think the best and briefest thing I can do—I'm James Walker, president of the Lakes Region Clean Water Association. We've been involved in this since sometime last fall. I think the briefest thing I could do is to outline our actions in this. Perhaps we can flesh out your chronology a little bit. Last fall, in November, we conceived the idea of asking the USCG if they had done an environmental impact statement prior to their assumption of jurisdiction, for various reasons. We were told that they had not and didn't feel that they had to. Now our concern at that time was perhaps they were changing the boating patterns; in other words, the enhancement of these particular lakes, the setting aside of this chain of lakes from the other lakes in the State might possibly shift boating patterns from the other lakes to this lake, these lakes; and having possible effects which might or might not be hard to forecast. In any case, we felt that based on, I think, the statute is 102-3-C which specifies that Federal actions having significant impact on environment had to be assessed. And another section of that particular statute says, I think, that in all cases where an action is likely to be controversial—and I don't think there's any doubt about what this action was controversial—in all cases where actions are apt to be controversial, the flat-out statement is made that an impact statement shall be done, with no qualifications. Of course we got the reply back from the USCG that they felt they didn't have to. During the winter we consulted with some of our legal people and the upshot of it was that they felt that yes, we did have grounds to—yes, the USCG should

have done an impact statement and we did have grounds to bring legal action and the USCG would be a proper defendant. Now it turns out that this was a rather expensive process; there is a considerable filing fee, I believe, to get into district court. Also there would have been very substantial legal time involved so that we didn't feel that we could pursue it.

Now some of the other reasons that developed as time went on have been covered here and are covered in your statement. I don't think I need to go into those in great detail. There is a question of holding tanks, various other ways boats have to be equipped, licensing; could you make the signing of an affidavit for licensing an affidavit to the effect that the boatowner was properly equipped at the time, and practicalities of enforcement. In any case, we felt that this would reinforce our contention for an EIS, so eventually we turned this material over to the Attorney General's Office and hoped that the State would act. Just about that time was when the USCG backed off. But we do intend, if the issue arises again or if there is any significant action in this vein, to pursue the request for an EIS and I'm not particularly a believer in forcing government bureaucracy to do more work than what they have to do, but nevertheless in this particular action, I think such a statement would be of considerable value. It would answer once and for all these questions about conflicting State and local law and State, local, and Federal laws; who has jurisdiction; who enforces; how can we enforce; is the money there to enforce? A statement of this nature I think in this particular instance would have answered those questions once and for all and if the occasion rises again, we expect to pursue the request.

Now as to our concern, we fall in line with the various other speakers you have. Our concern perhaps is more specific to the environmental factors. I'm not saying that the marine dealers and the commercial interests are not concerned with environmental impact. They are concerned and they've made that concern very clear. But what I am saying is our only concern is with those factors.

Now we are turning up material in relation to some other endeavors to the effect that there is lead in the food chain in that lake, significant quantities. There very well may be other materials derived from marine usage from outboard motors or whatever. I don't know how much of that is relevant in this particular hearing. Now one more impression that I would like to confirm—perhaps other speakers—I did receive a copy of Secretary Coleman's letter to the Governor in which he attempted to assess or estimate the revenue projections to show that there might not be any shortfall in New Hampshire receipts.

Now my impression that some of those points he covered, particularly the estimate I think where he said there were 25,000 boaters on the big lakes that would feel a desire to register so they could go to other lakes in the State; I feel that some of those projections are false, somewhere between rampant optimism and pie in the sky. I just don't feel that that assessment of revenue projections—no decision or forming of opinion should be based on that letter. I just

can't agree or even come close to agreeing with some of the projections that are in there. I think this can turn out to be a good thing for the State if it's handled properly. The issue has been raised, there are things that need to be done. We could perhaps get into a reciprocal licensing arrangement and benefit all right. But it has to have some direction given to it, it concerns—it has to be done not on the spur of the moment or under tremendous pressure as has been done. With that, I think I'll conclude by saying we concur with most of the rest of the speakers, at least the ones I have heard here. We don't need the USCG.

Senator DURKIN. Thank you, Jim. And again, the same offer if we can help in any way, please contact us. The hotline is a toll-free number and they're in touch with Washington. And on other matters as well, the congressional committee—we're pushing legislation to facilitate the bringing of class actions and relaxing the Federal rules to undo the handiwork of a couple of the recent court decisions restricting class actions.

So the USCG is a major concern, but also clean water is a major concern of mine. Please don't confine your input to just the USCG. Please feel free at any time. Thank you.

Mr. WALKER. Thank you.

Senator DURKIN. If I could ask the indulgence of this gentleman once more, Jim Murray has been patiently sitting here and is chairman of the Transportation Committee.

STATEMENT OF JAMES MURRAY, CHAIRMAN OF THE TRANSPORTATION COMMITTEE

Mr. MURRAY. Thank you, Senator Durkin. Just for the record, my name is Representative James Murray from Laconia, N.H., district 5.

I just would like to make a very brief statement here in behalf of myself, personally, and of the Transportation Committee of which I am the chairman from the House of Representatives of New Hampshire.

On January 29, 1976, I am sure you are aware of the fact that House Resolution No. 1 was passed unanimously by the House. Part of the House resolution was a charge to a legislative committee, a standing committee in the legislature, to come up with some sort of legislation to cope with the complications and confusion created by the USCG takeover. So since that time things have changed a bit. The Secretary of Transportation has pulled the USCG out at least on a temporary basis.

The Speaker of the House was saying that that case was coming up with some sort of legislation to the Transportation Committee and we had at this time more or less tabled it until next week until we digest the results of the testimony of this hearing which you were so kind to bring to New Hampshire. I would just like to state that the Transportation Committee would like to do the honors of congratulating Secretary Coleman for his stand at this time, and we would also like to thank you very much for your help in bringing this situation to a head and we hope you will continue to do so.

Thank you very much, sir.

Senator DURKIN. Thank you, Jim. I just hope the Secretary can continue to see the case as clearly as we do. That makes his decision permanent.

I think some of the testimony we've heard here today is excellent and of course the committee intends to work with the expertise offered by Commissioner Whalen from the Department of Safety. They have all the facts and figures as you heard them and have copies of today, and we'll act accordingly.

Again, the same offer. If we can help, the door's open—not just restricted to this matter. Thank you, Jim.

Scott or John?

STATEMENT OF JOHN M. O'CONNELL, PRESIDENT, MARINE DEALERS ASSOCIATION OF NEW HAMPSHIRE, INC.

Mr. O'CONNELL. There are bound to be some redundancies in what you hear from the various quarters, but I do think it is important for the congressional delegation to get all of the different points of view and how they arrived at the same place together.

I do have a prepared statement.

Senator DURKIN. John, would you identify yourself for the record.

Mr. O'CONNELL. I am John O'Connell from Wolfeboro. I am President of the Marine Dealers Association of New Hampshire.

The Marine Dealers Association of New Hampshire is an organization of the marina operators in the State. There are approximately 30 firms and they are located primarily in the Winnepesaukee area in which two-thirds of the boat registrations of New Hampshire are recorded. The marina and boat sales business, according to the New Hampshire marina industry study done in 1974 by the resources development center of the University of New Hampshire, has an impact of almost \$17 million on the economy of New Hampshire.

How is the marina and boat sales business affected by a USCG move to assume jurisdiction? Well, representing, as we do, the consumer boating public, over 45,000 of them of whom at least half are more or less permanent summer-home owners—now, we say out-of-staters; these are more or less permanent summer-home owners who feel as though they are natives—our primary concern is the preservation of law and order on the big lakes.

Now, we have chronology from every department, but our first news of an imminent USCG takeover came in November of 1975. I realize it happened in September. It didn't filter down to us until November.

We view this with some alarm since many of our dealers are experienced saltwater boat handlers and had experience with the degree with which the USCG commits itself to any form of citizen protection, such as vandalism or robbery or speed or traffic infringements.

We invited USCG representatives from Boson to attend the New England Marine Trade Annual Conferences held in Portland. That was early in December. I am treasurer of the New England Marine

Trades Association which is a combination of the State associations in New England.

In Portland we had four seminars scheduled. These were all scheduled with Federal authorities—the USCG, the Corps of Engineers, the EPA, and the Coastal Planning Commission. It's our custom to meet with agencies of this nature so that we can iron out differences and prepare the way and at least give them input into their scheduling.

All but one of our sessions in Maine was productive in that the marine trades people were able to plan with the Federal agencies for programs for the public good.

We found in the USCG section the keynote of what was to be repeated and repeated and repeated at following confrontations. Not once have we ever received a valid answer as to the necessity of USCG presence in our well-patrolled inland lakes. We were told that the jurisdiction was an accomplished fact, that it was unlikely that it could be overturned in the courts, and that only an act of Congress could remove it.

We were told that uniform boat numbering and reciprocity were essential elements, that all else would continue as before; that is, law enforcement, boat patrols, even safety inspections would be left largely to civil constabulary. In what manner were we then to benefit?

Thorny questions kept rising. Where would we get the funds to support our safety department? What about our hard-won clean-water laws? Who was the authority on rules of the road even, aids to navigation or lights used at night? The deeper we got into such questions, the deeper became our concern. It was becoming plain that we could not only not benefit from USCG presence, we could in fact suffer for it.

It is important to note here that the marine dealers were by no means the only group that had arrived at the same conclusion. On January 24, the New Hampshire Legislature felt it necessary to act, and I like the wording they used, the "whereas's". I love whereas's but this was a good one:

Whereas, the Coast Guard's assumption of jurisdiction over certain of New Hampshire's lakes and waterways may create problems of sufficient magnitude and complexity to warrant passage of legislation at either the state or federal level to mitigate the economic consequences of the Coast Guard's actions;

et cetera, et cetera.. The 307 members present voted unanimously on a resolution protesting,

This unwarranted usurpation of sovereign state's right to exercise complete control over any body of water lying entirely within its boundaries.

Now, we can sputter and kick and rave about economic problems and law enforcement problems, but that in itself is a major issue.

Well, the Clean Water Association was becoming alarmed; chambers of commerce were becoming alarmed. Always in back of the concern was an inability to get answers. Why, if we had the best patroller, best protected, and cleanest lakes in the Northeast, did we need the added complication of the USCG?

On January 24 at the invitation of Senator McIntrye, representatives of the Clean Water Association, the chambers of commerce, the

marine dealers, the Governor's office, the State legislature and Senate met in Senator McIntyre's office. You, Mr. Durkin, were there along with Congressmen Cleveland and D'Amours, representatives of the USCG and the department of safety. Also present was Scott Brackett, owner of the motor vessel *Mt. Washington*.

It was this meeting that we learned firsthand from Captain Holberg, chief legal officer with the USCG, that our State enforcement agencies could cojurisdict with the USCG but that New Hampshire could not refuse a boat registration to any vessel that did not meet with our no-discharge laws. Various other problems were discussed, mostly the loss in revenue and what alternatives were open to the State.

The meeting itself was frustrating in the extreme. I think Marshall French, I'm sorry he left—the dignity of his presentation that afternoon is something we will seldom forget. It was frustrating in the extreme to those of us who attended. Out of it, however, came our resolve to organize the commercial and civic and State government organizations to arouse public interest, obtain signed petitions, raise funds, hire counsel in a massive grassroots fight to retain our control over our own resources.

On March 19, I visited Governor Thomson and was encouraged to proceed with our organizational plans. On March 24, a meeting was held at Winnisquam with all interested parties attending. A steering committee was quickly organized and the Fresh Water Lakes Committee of New Hampshire was named. On March 26 in Laconia, basic objections were outlined and plans were made for massive distribution of petitions. This work is proceeding very well in spite of the announcement last week that the Secretary of Transportation had temporarily revoked the USCG determination.

But, let's get back to what I think; my point of view. I am a medium-sized marina owner. I am president of the Chamber of Commerce of Wolfeboro, N.H., which is billed as the oldest summer resort in North America. We have to get a plug in.

I think the authorities in the lakes region have been diligently working for 15 years to clean up our sewer systems and obtain decent laws to protect the quality of our water. We don't need the authority of the USCG to undermine these regulations.

Law and order is essential on a vacation lake. Our population in Wolfeboro swells from 3,000 to close to 30,000 in the summertime. We cannot possibly afford the kind of police protection which is necessary unless our summer visitors from out of State subsidize our efforts via boat registration fees. We are vacation land; they are vacationers. They must subsidize our protection.

I think our boating safety programs are absolutely top rate. The New Hampshire Department of Safety was given the NEMTA award 2 years ago for its boating safety and PR work with the public. PR work with the public is very essential in safety programs. The department also maintains an excellent system of lighted buoys and channel markers. Again, we don't need the USCG telling us to change all these to the salt water marks which are strictly sea and harbor oriented.

We are especially zealous of our control over the water level of the lakes. This is down to a fine science and we don't need any Federal agency claiming jurisdiction over this aspect.

I am a small businessman. My relationship with my customers is a direct and personal one. I cannot afford to antagonize them by selling State registrations to the people who use the lake east of town and USCG registrations to the people who use the big lake; nor can I afford tieups of my rental boats or water ski equipment because of contradictory State versus Federal regulations. This would be a heyday for the sea lawyers, such cojurisdiction.

Most of all I see a loss of what I call access to authority. As I mentioned before, the other Federal agencies we deal with such as those which attended our Maine conferences—the EPA, the Corps of Engineers—appear to exhibit thoughtful consideration over the impact of what their regulations would be on people, businesses, and on the environment. The USCG never asked us; they told us, and repeated pleas for clarification met only with shrugged shoulders or total indifference.

I think the whole thing is a dangerous precedent. I really don't think the USCG should have the power to make determinations which have the effect of law. This applies in Federal situations and in our own State situations.

I believe the program was a poorly conceived blunder. We in New Hampshire do not resist authority. We believe our greatest resources are residence—not people but places to live—and recreation, and we believe that these should be tightly controlled in the State for the benefit of all our visitors. I believe that we have demonstrated that we can manage these resources in a superior manner. Thank you, sir.

Senator DURKIN. Thank you, John. Again, I think it can't be said too often that the USCG should take care of our 17 miles of coast, that they would appear to have their hands full. I think the State is doing an excellent job with the lakes.

Again, I make the offer. Hopefully by keeping this subject illuminated by virtue of this hearing and to recess it with the option to pick it up will help keep the subject illuminated. Hopefully the Secretary will make permanent his determination, and then we can rest easy. But if not, we can't overlook the avenue of the court suit and proceeding on the Senate floor and the floor of the House as well.

Again, if we can help in any way, we will leave the record open. If there is anything you want to add to it—

Mr. O'CONNELL. One thing that happens that I am sure you are aware of is when a wave like this is started, it is very difficult to stop it, the indignation and the petitions and so forth. The petitions continue to be signed, and the rate with which they are being signed continues to amaze us. I think it would be wise to obtain a Senate solution to this. Now that we've started this thing, it's going to be very difficult to stop it. I would hope that—we, of course, could hope that the USCG will simply fade away, and maybe that's what will happen in the end. In the meantime, our machinery is all geared up and working, and the petitions continue to flow in, and it would be best to get a resolution quickly if we can.

Senator DURKIN. I think if the Secretary of Transportation makes permanent his action of last week, I think that would—someone could appeal his determination, I suppose, to the Federal court, but I don't see anyone on the horizon who would do that. That for all intents and purposes, save an appeal from the other side, is a final determination. That would bind his successor.

I realize we would all like to get this resolved. Again, it's that mindless, faceless bureaucracy just moving like the ice age.

Mr. O'CONNELL. Access to authority is what we are fighting for, and this is a great example of it, you're coming up here and having us all here. We do appreciate it. Thank you.

Senator DURKIN. Thank you, John.
Scott.

STATEMENT OF N. SCOTT BRACKETT, WEIRS BEACH, N.H.

Mr. BRACKETT. My name is Scott Brackett. By the way it's spelled with two t's. I represent or am president and owner of Winnepesaukee Flag Ship which owns the motor vessel *Mt. Washington* and two other all-fireproof steel vessels on Lake Winnepesaukee, N.H.

I do have a prepared statement from which I may deviate at times, a brief one, and then I wanted to leave it open for discussion afterwards as to specific circumstances.

Others who have testified at this hearing have already and perhaps will in a few moments cover areas of concern in the dispute surrounding the USCG's unilateral determination that Lakes Winnepesaukee, Winnisquam, the Merrimack River, and connecting waterways are suddenly, after 200 years, declared navigable waters of the United States. I want to try and confine my comments a little bit to the areas of greatest and immediate concern to people, such as myself, who are responsible for the safety and well-being of tens of thousands of people on the lake every year—that is, boating safety. But first I do want to cover a little bit of background on the causes of, and basically the reaction to, the determination. I may be a little bit redundant but, I think, want to treat what in my view is an approach to resolving the entire situation without jeopardizing boating safety.

Basically, the cause of the problem—and I'm going to try to call a spade a spade—is:

No. 1: The lack of success on the part of the USCG to convince New Hampshire to adopt the Federal Boating Safety Act of 1971.

Two: Just a very few vocal citizens in our neighboring States, out-of-State boaters who wish to be able to come to our lakes in New Hampshire without having to buy separate New Hampshire registration just as they drive cars today, et cetera, between States; in other words, reciprocity.

And I will call it an ill-conceived plot on the part of one or perhaps two USCG officers—we could easily condemn the entire USCG and I think that's wrong, but I think there was a plot on the part of a couple of USCG officers to use the Winnisquam Bridge application as a very important opportunity to get a determination of

navigability to force the State of New Hampshire into conformity and passing the Boating Act of 1971.

Now the reaction to this takeover of jurisdiction has been strong. The USCG, I think, now realizes that the State of New Hampshire or New Hampshire citizens, I should say, react strongly to any unilateral takeover of any jurisdiction when:

One: Devious methods are used in an effort to obtain an objective which is entirely different.

Two: There are no significant benefits demonstrated to the people or any specific need demonstrated.

Three: It increases significantly some safety hazards that were previously minimized.

Four: It represents the loss of home rule.

The USCG right now, I think, is secretly embarrassed by the whole affair—this is a personal opinion—and are probably wondering how this kind of tactic was even allowed to be used or even got through or by the top brass. The majority of the USCG officers, in my opinion, who are all familiar with the northeastern part of the United States, if secretly polled, in my opinion, would vote:

One: The waters in dispute are not navigable.

Two: The New Hampshire boating safety is excellent as evidenced by the record.

Three: The USCG has not got the resources to fulfill its boating safety responsibility if New Hampshire decided to dump the whole thing in their lap and have them take over all functions on the waters in question; and then, I might add, the USCG would be subject to more lawsuits than they have ever seen in their whole existence.

Four: Another reason for the USCG officers, if polled secretly, would consider the affair, the whole affair damaging to the USCG's public image.

Five: The USCG has more important functions and missions to spend its time and money on.

People in New Hampshire and even in other States feel that the background justification for the determination, as we have discussed here today, essentially is ridiculous and bears no relationship to the real world. They ask, "Why now?" "Where has the USCG been for the last 200 years?" The entire length or even all of its parts have never nor ever will be navigable.

The situation now is that New Hampshire will not pass, in my opinion, the Federal Boating Safety Act of 1971 until:

One: The USCG permanently revokes its determinations; or

Two: They come out with a new determination that shows these bodies of water in question as not being navigable waters of the United States.

Three: the U.S. Congress takes the unilateral determination of authority away from the USCG to prevent further abuses;

Four: Congress redefines the whole area of navigability and under what conditions the USCG should perform its functions, which by the way may have nothing to do with navigability.

It's unfortunate the courts have stretched the interpretation of navigable beyond any point of recognition or understanding, as never intended by Congress, even, I understand. Captain Halberg

of the USCG's legal staff has suddenly, since our meeting in Washington where we were asking him how sure he was about the determination, has suddenly conceded that now the whole area of navigability is very confusing and a clearer definition is in fact needed, which in my opinion is a charge to Congress. And they have, I believe, indicated an interest in pursuing that subject of defining where they should be performing their functions.

Senator DURKIN. Defining navigability is like defining beauty.

Mr. BRACKETT. I do have a little more on that, on specific suggestions a little bit later.

There would have been real problems affecting boating safety on Lake Winnepesaukee, and I would like to point to one of them because some of the others have been covered adequately. This year, if the USCG had not revoked its jurisdictional claim, boaters visiting from out of State would have come onto our waters without first being oriented to the different kinds of navigational aid systems we have, regulations and at least have known that, hey, you can get a chart. Today when they register in the State, a new boater has to go to either the department of safety or to, let's say, a marina where there are competent people who have been on the lake for years in order to get a registration and get a plate. And that is what everyone focuses on, and what I would like to focus on from the point of view of boating safety is the most important function that is performed by that little visit and that little talk which is:

One: He is acquainted with the fact that this lake is different. Usually they ask, "Have you ever been on the lake before?" I'm not saying it happens all the time, but it happens enough so that it cuts way down on the boating accidents. Because anyone who is used to salt water and they come to Lake Winnepesaukee and leave red-right-returning, they're going to be on the rocks all the time.

And my personal prediction is that had not the USCG determination been revoked, there would have been a 100 percent increase in the number of boating accidents this summer due to the lack of opportunity of us being able to orient those people who come and physically get a plate and find, hey, there is a chart; hey, the buoy system is a little different: we do have holding tanks, et cetera, et cetera.

Another subject: plans for a passive confrontation were developing to such proportions that the USCG would have been powerless, in my opinion, to enforce its registration regulations. It would have been another source of embarrassment, in my opinion, for the USCG, which I don't think is needed.

Now, possible solutions to the problem I have outlined as follows: (1) A permanent revocation of the determination; or (2) a redetermination that it is not navigable.

Two: Congress perform a thorough analysis on the laws of navigability and give consideration of what specific set of circumstances justify the USCG's involvement, including possibly considering the following: (A) Waters in question must be navigable in fact today or bordering two States; (B) asked by State to help in developing boating safety program, which may be nonexistent in a particular

State; however, without any jurisdictional change; (C) demonstrated poor safety record on the waters in question. This from a public safety point of view. If the State doesn't have a boating safety program, they're having a high accident rate on a specific body of water, I think a case can be made for the USCG, saying, "We should be in there at least to help you get a program launched." And I think that can be justified for the social welfare of the area.

(D) USCG must have resources to take over and improve boating safety programs on the waters that are navigable. Here they have made a declaration all by procedure of law, but in fact if it was dumped on their lap, they could perform none of the functions of the kind that are performed today by the department of safety with the exception, perhaps, of the inspection of commercial vessels.

(E) A hearing should be required and a congressional committee should be responsible for reviewing and approving any changes in jurisdiction, because the fact remains that not a great many canals are being built; there aren't any de facto or in fact changes in navigability; so that Congress should not be besieged with a lot of petty details but rather it would be a major change and it would be obvious and, again, avoid abuses.

Three: In possible solution, representatives of the USSG, the New Hampshire Department of Safety, New Hampshire Marine Dealers and I won't name off all the associations but any other association with a direct interest should sit down together and attempt to overcome the few remaining obstacles which thus far have prevented New Hampshire from adopting the Federal Boating Safety Act for fear that it might result in a decrease in boating safety.

This I think only can happen after the USCG is permanently out of the picture as far as claiming any jurisdiction.

The subjects that should be considered at that are the stumbling blocks that have been mentioned here today: maintaining today's control that boats prior to going into our waters do have holding tank systems where required;

(A) Continuing ability to orient new out-of-State boaters prior to going onto the waters, so that at least we get them somehow familiar with the fact that the buoy system is different, and here's where you get a chart and you should have one.

(B) Clarifying any other areas of possible conflict in law and enforcement ability.

(C) And I'll underline this, financial guarantees to insure that proper funding will continue for the existing boating safety program of the New Hampshire Department of Safety.

A close evaluation must be made of at what cost is conformity worth it, and who pays for it both in dollars and safety. Now, it's going to take a lot of patience to get over these four hurdles that I've mentioned, but I think it can be done, but it's only after it's not being jammed down New Hampshire's throat.

I think further research should be done in support of the bill that you propose, Senator Durkin, along with Senator McIntrye, S. 3214. Final submission of the bill, in my opinion, should be held until the entire strategy for this issue, as you have outlined earlier today, is coordinated and evaluated relative to the case the New Hampshire

Attorney General's office has prepared or is preparing and further research is done on a general law change by Congress as I suggested earlier. So a redefinition of the whole area of where the USCG should be performing its functions, whether it has anything to do with navigability or not.

This concludes my prepared remarks and I stand ready to answer any questions that you may have on the items that I have discussed. And I can tell you a little bit about how it feels to get right in the middle of a jurisdictional battle where some people make representations about your ship that potentially could have a serious impact on business without knowing facts.

There is some chronology if you are interested that I could go through that might flush out a little bit more on the chronology that you had in your statement, sir.

SENATOR DURKIN. Fine. If you want to submit it for the record or anything else, we can leave the record open and we will leave the record open. Hopefully we will close the record with the Secretary's determination, permanent determination that the problem is resolved.

I think the thrust of your testimony is that everyone should work together, and I think again the order, the battling order is hopefully the Secretary will solve the problem shortly. If not, I think the next avenue is court, a Federal court. And we want to make sure, all sides want to make sure that anything we do does not jeopardize the possible outcome in court. Then if we get an adverse decision in court, then we all still have the avenue of going the legislative route, which is the most difficult, especially in the Senate. The rules of the U.S. Senate, if you ran the business the way the U.S. Senate runs—

MR. BRACKETT. I wouldn't be in business.

SENATOR DURKIN. Precisely. The reason we proceeded as we did, and it was a difficult job, was to draft a bill that touched where we wanted to touch. This 40 pages is fine print trying to define navigable, and I'm not sure Solomon could define it for legislative purposes. So we went after it another way just to eliminate the USCG's jurisdiction. But hopefully we won't have to go that route. Hopefully through the efforts of everyone, and I'm sure I speak for the whole delegation, the congressional delegation wants to work with the various interest groups in the State—Bob Whalen, Safety; Commissioner Flynn; the Governor's office; the legislature—hopefully to get the problem solved as soon as we can permanently.

As I say, if we can help, the door is open, Please call. You can contact, as I say, the Manchester office, the hotline, and if anything comes along before the record is closed, feel free to send it along.

MR. BRACKETT. OK. There was one item that I thought would be of benefit. There were accusations flying around in the heat of battle with respect to our vessels and specifically the *Mt. Washington* before the USCG had an opportunity to even know about the vessel or inspect it. The inspection office out of Portland was outstanding, very cooperative, very helpful.

Coincidentally, right after Attorney General Souter's either call or visit with Washington on Monday the 24th—I don't know whether it was Monday, the 29th, I guess it was, yes, Monday the 29th, a call

came to Portland and Portland called me, "We're coming to inspect the *Mt. Washington* tomorrow."

There were certain allegations. Even prior to this there were allegations that were ridiculous. The USCG did subsequently inspect the *Mt. Washington*. The officers were very impressed with the ship as far as its outstanding condition, the safety procedures that the State had implemented and we had implemented. We have some that are not required by the USCG and some that are not required by the department of safety that we feel are essential for a-man-overboard situations, et cetera.

Apparently someone in the USCG had alerted Secretary Coleman that in perhaps defending this action that, "Gee, there might be a fire hazard up there, a floating fire hazard." This may have gotten twisted over translation between a few people. Or that it may have a poor tilt, meaning that if all of the passengers moved to one side, what we call stability.

As a result, we found out at that time that they thought it had a wooden superstructure, and long before the comments were ever made as alleged to the Governor and the Attorney General this date over the phone, long before that there had been a call from Commander Eckland in Portland, and I know he had transmitted the information that she was entirely a steel hull and had basically all the fire protection equipment as required by any law. But I don't think—whether it didn't get through Boston to Washington, I think frankly what's happened is that Secretary Coleman got out on a limb, and he's upset that someone has given him bad information when they didn't know; and also they didn't know at that time whoever the one or two officers were in Washington or in Boston passing this information around helping them to defend their position of what they were trying to do. I think there is honest dissension and confusion in the USCG over the whole thing, and I don't most of them want any part of it, but they got hooked on it. It got by a few people.

Senator DURKIN. We have seen some evidence, not hard evidence that we could introduce in a hearing, but there are indications that the USCG is not one bit a happy family on this.

Mr. BRACKETT. There were comments by an office out in Salt Lake City who said, "It's a good thing I'm retiring next year, but our position is tenuous."

Also they've had the clam up for a number of weeks with respect to anybody talking about Winnepesaukee, with the exception of a couple of appointed officers. No one is allowed to discuss it.

An officer went to Boston, I understand, with instructions, "There are three things you may not talk about. One is the whole Winnepesaukee-Winnisquam issue." And that was to a meeting of the Propeller Club.

There are many other indications, whether it be sudden transfers and everything else, that indicate they are not happy with the whole situation.

If Secretary Coleman is able to come up with a redetermination of the USCG, we can put the whole thing to bed, with the possible

exception of what Congress may consider over the long, long pull of redefining the whole area of confusion and curing the cause of the problem. I just feel unfortunate that I make a visit to Washington and even little veiled comments by people out of Washington from the USCG over the phone with other people, "Wait until we get up there and take a look at that big ship, and we'll show you what a public service we can perform." That kind of stuff, I don't buy it.

I think also, I mean, equally as critical personally that when a comment is made that is baseless and anybody tries to make political hay out of it, I don't like that either. It affects our business. Our crew is incensed by it. And the USCG—and again I say the people out of Portland were outstanding. I am sure most of the people in Boston are too. They're professionals. They're there to do a job, just as our Department of Safety is out there to do a job. And we're there to do a job, and I think the public record will show with respect to the safety of our vessels over the years that it's outstanding.

Another thing they didn't realize, she had a hundred tons of concrete ballast at the time those statements got started, because they never inspected it.

But anyway, the inspection took place the day of Souter's visit to Washington, on that Monday, or his call to Washington, the negotiations, presenting the case. That afternoon I get the call, "We're coming over to inspect the *Mount Washington*." The USCG had asked 2 days to think about it.

There was tremendous pressure on those guys who came over from Portland, and they didn't know why. The basic reason or rationale was, "Well, we have to see if there are any exceptions that do have to be cleared from a policy point of view on our regulations with Washington."

They completed the inspection by noontime, and they were suppose to go on to the other boats. They shot back to Portland. There were verbal conversations, as I understand it, between Portland and other offices of the USCG either Boston or Washington in order to tell them if there was anything major. And there was nothing really significant affecting safety.

But the message got back, "I guess there was nothing big, so I guess we haven't got something to hang our hat on," or suggest to Souter that the Department of Safety hasn't been doing its job. We're thankful for that.

Senator DURKIN. Well, you touch on a very serious problem. It hasn't manifested itself in this proceeding yet because we haven't called the USCG and haven't had the necessity to call the USCG.

The bureaucracy is in a position to take care of all their mistakes and put some sort of classification on them. And then you get the argument—at times it's very, very difficult for Congress to get the information from the executive department, and this is true and it doesn't make any difference whether its Democrats, Republicans or Independents. The executive agencies get a life of their own, and

any mistake, they can put a classification on, and Congress has to fight for the information sometimes.

Mr. BRACKETT. I just think it's unfortunate strategy that they decided to jam something in the middle. If their original contention to come onto the lake was a feeling that there might be a problem with commercial boats or they, you know, just wanted to see if New Hampshire was doing the job, even if they said that, I wouldn't be screaming. But when the reason was the navigability and then they try to say maybe this is another justification and jam us right in the middle and then it hits the press—bad news. It can have a serious impact on someone's business. I think that all the USCG officers that I've talked to are absolutely shocked that anything came out like that because they said, "Where the hell did they get that?" Oh, excuse me. Because they know it wasn't fact, and somebody planted it into Coleman's ear, and I think it was a wrong tact to take in trying to defend a position that in many respects—either it's strong enough to stand on its own two or it isn't.

Senator DURKIN. Right.

Mr. BRACKETT. And I take serious risk by even talking about this kind of thing obviously. But, you know, Coast Guard—all of a sudden it's the Commandant's idea and wham. "OK, if we're back in there, boy that ship is going off that lake come hell or high water." If they want to force it, they have the power. The only thing that can prevent it is an act of Congress.

Senator DURKIN. I am sure that I speak for the whole delegation that we would not sit idly by if any governmental agency is harrassing a citizen who is taking advantage of a very fundamental right. It's a first amendment right to express your view points to an elected official.

Mr. BRACKETT. I hope I have done it in a balanced fashion to demonstrate that the people who are out there doing their job are trying their darndest with limited resources, both, obviously, to the USCG and the department of safety; that we're just talking about one, two, three, maybe no more than that, officers who are required to work this plot, and that's what I call it. It was a plot and we caught them at it and they're trying to cover up. Right now there is a clam on, so that if I want to get a written copy of the report out of Portland on my ship—they did the inspection and the next day it was called off. Now, I got a verbal report because I had an agreement with them.

Basically the story I got, which I want to confirm today, is that "unfortunately we can't go out with anything, everything has to go through our legal staff in Washington." Now, you know, they did an inspection and now they don't want to give a report. But I got the verbal report. I'm satisfied. They're satisfied on that.

So again, it's generating out of Washington and perhaps was out of Boston a little bit, just one or two or three. I don't know who they are specifically, but I've got pretty good guesses.

Senator DURKIN. Again, if there is anything else we can do, please contact us.

Mr. BRACKETT. A point of interest, in the documentation process, they came up—the documentation officers came up also. They were also very cooperative, arranged to get my signature on the dotted line, but I was willing to get thing rolling. If that's the way it's got to be, we'll respond to whatever authority there is who is interested in the same things we are, which is the safety of the passengers.

But the hilarious thing was some of the comments made, the official home port for the Mt. Washington would be Portsmouth, N.H. Here we'd be denied because of the lack of navigability of the waterway to get to our home port. Thank you, sir.

Senator DURKIN. Thank you, Scott.

Why don't we break for about 15 minutes, and then we will pick up with you, sir, and anyone else.

[Recess.]

Senator DURKIN. Could you identify yourself for the record.

STATEMENT OF ANGELO ASCIOLLA, LAKE WINNISQUAM

Mr. ASCIOLLA. My name is Angelo Ascioffa. Mr. Durkin, I want to thank you for giving me the opportunity of talking here today.

Senator DURKIN. My pleasure.

Mr. ASCIOLLA. I own and operate the Lord Hampshire Report on Lake Winnisquam and have for the past 30 years. I am also chairman of Lake Winnisquam Clean Water Committee, representing some 275 property owners on the lake. The purpose of this group is to keep Lake Winnisquam clean and suitable for recreation.

As a resort owner whose business depends in great part on the recreational advantages of being on a lake, I am as deeply concerned as other property owners as to what will happen to the qualities of the waters of Lake Winnisquam if the USCG gains control.

Every summer for as long as I can remember there have been algae growths. By the way, this is a subject that I felt wasn't going to be touched on. That is the reason I came. I felt pretty sure that everything else, all other aspects of the hearing would be handled properly by the people who were going to be here. But I had a feeling that our particular problem which is unique to Lake Winnisquam at present, which may extend in the future to Lake Winnepesaukee where they have already begun to see signs of algae growth, I felt that I should get this into the record.

Every summer for as long as I can remember, there have been algae growths on the lake in question. If such algae blooms were allowed to run their course without proper treatment, the unsightly mess would drive vacationers out of the area as it did in July of 1967. At that time I had guests come up to me and demand their money back, people who were going to be there for a week, 2 weeks.

The algae was so bad that if you stepped in water—my niece stepped in our beach area with her feet in 4 inches of water and you couldn't see her feet. So people left that summer. Not only from our place but along the lake, demanding their money back which is understandable.

A condition like this, therefore, would create havoc with the recreation business and cause lake front property to decrease in value, the effects of which would be felt at local and State levels.

The State of New Hampshire is very much aware of the problem. It has maintained a monitoring of the lake through the New Hampshire Water Supply and Pollution Control Commission. This agency has been quick to respond to the problems on the lake and has successfully treated the algae growth with copper sulphate eliminating the unsightly mess. There have been times when the lake had to be treated two or three times within the course of a summer. These treatments cost between 12,000 and 14,000 dollars per treatment.

The people on Lake Winnisquam are seriously concerned as to whether or not the USCG is prepared to take on this task should it acquire jurisdiction over the lakes. If so, will it monitor the lake and be ready to treat the problem before it gets out of control.

We have had a direct line of communication with the Governor's office on matters of this nature, and the response has always been instantaneous. I doubt very much that we can expect the same results from a Federal agency.

I am strongly opposed to the USCG taking control of Lakes Winnisquam and Winnepesaukee. Thank you.

Senator DURKIN. Thank you. That's an interesting question. It's the first time, to my knowledge, that it has been raised.

Mr. ASCIOLLA. Well, it's a unique problem on Lake Winnisquam, and it comes up every year. I met with Governor Thomson last September because there had been no money appropriated for this coming summer, and hopefully he will have it available in the event that—well, I'm sure. The algae comes up every year at least once.

My question to the USCG would be, are they able to handle these situations on fresh water lakes; would they be ready to do it; do they have the funds for handling—this may seem like a minor problem to a Federal agency, because they're used to handling problems on the ocean. But what would happen to our industry, the recreation industry on Lake Winnisquam and eventually on Lake Winnepesaukee? They have problems in Wolfeboro, I understand, as far as algae is concerned. And the State keeps control. They watch it closely and treat it when it is necessary. Costly, but they do take care of it so the mess is gone before the guests are able to be exposed to it.

Senator DURKIN. That's one of the major problems today is no one takes the time to take care of the little problems or what appear to be little problems. Like the guy says, "I make all the major decisions, whether we should stay in the United Nations or not; and my wife makes the minor ones, like what car we buy." I think it's part of the same problem.

Again, if we can help and I speak on behalf of the entire delegation and the Commerce Committee, take advantage of the hotline number. Get in touch with the Manchester office and they're in contact with us. And the record will stay open. And not just on this but on other matters, if there is anything we can do. I think at times

people presume that we know what's going on in Washington, so they don't bother to call.

Mr. ASCIOLLA. This is the general feeling.

Senator DURKIN. Please take the time. If you have a problem, call. If you have any more information, we will do the best we can.

Mr. ASCIOLLA. Thank you.

Senator DURKIN. Thank you.

Is there anyone else who would like to—justify is an awful formal word—add more common sense to the record.

STATEMENT OF HARRISON WORKMAN, LOBSTERMAN FROM NEW HAMPSHIRE

Mr. WORKMAN. Senator Durkin, members of the committee, my name is Harrison Workman. I am a lobsterman from Portsmouth, N.H. on the seacoast. I am in opposition to the USCG taking over the lakes, because I think they're going to have their hands full patrolling when the 200-mile limit is enacted, and they're going to need all the people they can get out there. There are going to be more fishing boats coming up to the New England coast along with our own that are going to need protection. As to the fleet right now, most of it is in bad shape anyway, our own fleet, and the boats are always breaking down. They're just going to need more personnel to take care of the problems they are going to have on the seacoast and out 200 miles.

So I don't really see the purpose of them trying to take over the lakes when they have a manpower problem right now. Thank you, Senator.

Senator DURKIN. Thank you. It doesn't make sense. If they take care of first things first, they will take care of our exposure along the seacoast.

Another thing, we have been talking in a very preliminary way with the Air Force liaison officer—I don't want to raise expectations because I have no assurance that anyone is listening to me other than my own staff, but I have brought it up with the Air Force liaison officer in the Senate about the possibility of stationing at Pease a helicopter so that it would be available for assisting in emergency situations along the coast as well as when one of the Air Force planes go down.

Mr. WORKMAN. Well, the main function of the USCG is search and rescue anyway, and personally I think they do a nice job with what is available to them. It's assuring to know that if you're in trouble, you can pick up a radio telephone and you can get help within a short period of time. I think they should stay on the coast where they belong and are needed.

Senator DURKIN. In fairness to the USCG, they were very helpful late last year when we were trying to get a helicopter to come up on that sinking off Gloucester where the New Hampshire resident drowned. The USCG was very, very helpful.

Mr. WORKMAN. Yes, I understand they were there within 20 minutes and they did conduct, I felt, a fairly good search until dark, when it was presumed the man had drowned and the rest of the fisherman who were assisting in the search went home for the night.

Senator DURKIN. I was referring to—this was back in December.

Mr. WORKMAN. It was a different incident I was referring to.

Senator DURKIN. It was a Manchester girl who unfortunately drowned, but it was off Gloucester, Mass. Off the Annisquam River, I guess it is.

Mr. WORKMAN. Yes, the Annisquam River, the entrance to the Annisquam. The Aquarius episode, yes.

Senator DURKIN. But again, I'm sure you know, if there is anything we can do, let us know on this and generally. Washington is funny. In Washington knowledge is power, and the only way we're going to get the knowledge is if people, you know, like this morning when people take the time to come out. I hope more people take advantage of our hotline too.

Mr. WORKMAN. Thank you. I just didn't want to see the entire USCG blamed for a few.

Senator DURKIN. Right, thank you. I'm sure the USCG appreciates it too. I'm sure you appreciate too when they answer your radio call in rough weather.

Mr. WORKMAN. Right.

Senator DURKIN. If there are no other people who want to offer any comments at this time, we will recess the hearing, and hopefully the Secretary will come down with the decision that will solve the problem and eliminate the necessity for calling the USCG at a subsequent date.

I want to thank everybody again, Lois for the facilities here, and all the people who took time from busy schedules to come and testify.

As I said, and I may be repeating myself, but the one thing that is often times still lacking in Washington, and the record is replete with it this morning, is good old common sense. So thank you very much.

[Whereupon, at 1 p.m., the hearing was adjourned, subject to the call of the Chair.]

ADDITIONAL ARTICLES, LETTERS, AND STATEMENTS

THE STATE OF NEW HAMPSHIRE,
Concord, N.H., April 6, 1976.

HON. WARREN G. MAGNUSON,
*U.S. Senate,
Washington, D.C.*

DEAR SENATOR MAGNUSON: Thank you for your two letters to me dated April 1 and April 2, 1976 with respect to the hearing which Senator Durkin plans to hold on Friday, April 9th with respect to the application of the Federal Boat Safety Act of 1971 to certain New Hampshire waters. I have spoken today with the Committee's staff counsel, Mr. Walsh. He understands that I am not at the present time in a position to respond to all of the questions which you posed in your letter dated April 2nd. I had explained this in a letter dated April 2, 1976 to Senator Durkin, in which I pointed out that I did not believe that I was in a position to testify in a comprehensive way with respect to the legal status to the waters in question.

In talking with Mr. Walsh, I explained the degree to which we had been able to develop our position in preparing to respond to the written determination of navigability by the United States Coast Guard, which we believed to be insufficient in law and fact. I suggested to Mr. Walsh that I would certainly be able to repeat at the hearing the position that I had presented to the representatives of the Department of Transportation on this point. He said that he believed that such testimony, of that limited nature, would be helpful and appropriate. I will therefore plan to deliver such limited testimony when I am notified that the Committee wishes to hear me on Friday. I trust that no one will expect me to go further in describing our research than we have ourselves been able to go at this point.

Yours sincerely,

DAVID H. SOUTER,
Attorney General.

DEPARTMENT OF TRANSPORTATION,
U.S. COAST GUARD,
Washington, D.C., April 8, 1976.

HON. WARREN G. MAGNUSON,
*Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in response to your letter of 2 April 1976, concerning the scheduled hearings in New Hampshire dealing with application of the Federal Boat Safety Act of 1971, 46 USC 1451 et. seq., to certain inland waters in that state. In your letter you raised seven specific questions regarding Coast Guard enforcement of this statute on Lake Winnepesaukee, the Merrimack River, and their interconnecting waterways, as a result of a navigability determination made by this agency on 2 September 1975.

As you are probably aware, because of intense interest by both the State of New Hampshire and its Congressional delegation, on 31 March 1976 I agreed to re-analyze the prior jurisdictional determination. The prior determination has been revoked pending the outcome of this review, and Coast Guard programs will remain unchanged until that time. In the interim, I am inviting participation by all interested parties in compilation of factual data concerning the geographical and historical background of this water system.

My answers to your specific questions are provided as enclosures, to facilitate convenience of use at the upcoming hearings.

Sincerely,

O. W. SILER,
Admiral, U.S. Coast Guard Commandant.

Enclosure.

Question: Why did the Coast Guard not declare the Lakes and waters in question navigable before 1975?

Answer: The Coast Guard is charged with the administration of a number of statutes having application to the navigable waters of the United States, including 33 USC 401 and related statutes respecting the construction of bridges, and the Federal Boat Safety Act of 1971 respecting the regulation of recreational boating and other matters. In order to carry out its responsibilities this agency must, from time to time, determine for itself the geographical extent of its authority under these statutes. These determinations, which are controlling only upon Coast Guard program administrators, involve the application of legal principles enunciated by the courts to the relevant facts concerning the physical characteristics and use, both actual and potential, of the particular waterways where the questions arise.

Where the Federal courts or Congress determine that certain waters do or do not constitute navigable waters of the United States, the Coast Guard is bound thereby. However, where no dispositive judicial or congressional determination has been made, the Coast Guard must apply the appropriate test to the factual circumstances concerning specific waters in order to determine whether the Coast Guard, as an arm of the Federal Government charged with many duties and responsibilities in regard to water transportation and recreational activities, has jurisdiction under any particular statute. Depending on the novelty of the legal issue involved, the extent to which the application of the test to the factual circumstances is in question, and the extent of the public interest, a finding relative to jurisdiction is made by the District Commander or by the Commandant, U.S. Coast Guard in Washington, D.C.

In late 1971 the First Coast Guard District staff at Boston, Massachusetts received a draft environmental impact statement relating to the proposed replacement of the U.S. Route 3 bridge across Lake Winnisquam at Winnisquam, New Hampshire. The State of New Hampshire, Department of Public Works and Highways requested Coast Guard comments on that draft statement. One of the Coast Guard's statutory responsibilities is the approval of the location and plans of bridges over navigable waters of the United States, pursuant to section 9 of the Rivers & Harbors Act of 1899 and the General Bridge Act of 1946. The applicable statutes may be found in Chapters 9 & 11, Title 33 U.S. Code. Bridge approval functions originally were vested in the U.S. Army Corps of Engineers but they were transferred to the U.S. Coast Guard by Congress when the Department of Transportation was created in 1967.

The replacement of the Route 3 bridge with a new structure was the type of activity which would require a Coast Guard issued permit, if the waters involved were navigable waters of the United States. After a lengthy background field investigation, and legal analysis at both the district and headquarters levels, the determination was made that the subject water system was a part of the navigable waters of the United States and waters subject to the jurisdiction of the United States for purposes of Coast Guard jurisdiction. Once the Coast Guard determines a waterbody to be part of the navigable waters of the United States for purposes of Coast Guard jurisdiction, it is part of the navigable waters of the United States for purposes of all laws the Coast Guard administers.

Question: Explain (1) the concept of navigable waters as it applies to isolated inland waterways, such as Lakes Winnepesaukee and Winnisquam, and (2) the tests which the Coast Guard applies in its determination regarding the Merrimack River Basin.

Answer: The term "navigable waters of the United States" is a jurisdictional concept, developed by Federal statutes and court interpretation over a great number of years. "Navigable waters of the United States" are those waters upon which many Federal laws, and the jurisdiction of Federal courts for certain purposes, apply. It is a confusing concept in that the controlling tests often seem contrary to the literal meaning of the term navigable waters. Present capacity to support commercial navigation is not necessarily a requisite for a finding that particular waters are a part of the navigable waters of the United States.

The specific tests used to support a finding that waters are navigable waters of the United States are the tests enunciated in the following judicial decisions,

among others: *The Daniel Ball*, 10 Wall 557 (1870); *U.S. v. Appalachian Electric Power Co.*, 311 U.S. 377 (1940); and *Economy Light and Power Co. v. U.S.*, 256 U.S. 113 (1920). Briefly, those cases hold that waters are navigable waters of the United States when they are or have been used, or are or have been susceptible for use, by themselves or in connection with other waters, as highways for substantial interstate or foreign commerce, notwithstanding natural or man-made obstructions that require portage.

Also, a waterbody that is determined capable of improvement at a reasonable cost to provide, by itself or in connection with other waters, a highway for substantial interstate or foreign commerce, would be considered part of the navigable waters of the United States. With respect to the factual basis for the Winnepesaukee determination, the Coast Guard concluded that the major portion of the chain of waterways is navigable in fact; commercial navigation has been maintained in the past or is currently present on a large segment of the system; and prior plans and studies concerning both the dredging of the waterway and the construction of parallel canal works conducted by private individuals, private companies under State charter, and the U.S. Army Corps of Engineers, showed the economic feasibility of development of the entire waterway for purposes of interstate navigation. These facts met the tests stated above, thus the waters were determined to be part of the navigable waters of the United States.

Question: What activities does the Coast Guard presently undertake in New Hampshire under the Federal Boat Safety Act?

Answer: Section 18 of the Federal Boat Safety Act requires the Secretary of Transportation to establish by regulation a standard numbering system for all vessels, and regulations at 33 CFR 173 implement section 18. Inasmuch as the State of New Hampshire does not currently have an approved numbering act, under the provisions of the Federal Boat Safety Act of 1971, the Coast Guard issues federal numbers for the New Hampshire waters over which it has jurisdiction. In addition, the Coast Guard enforces safety related regulations issued under the authority of the Federal Boat Safety Act on these waters (lifesaving equipment, safe operation practices, etc.).

Currently, the Coast Guard considers the coastal waters of New Hampshire, including Portsmouth Bay, to be part of the navigable waters of the United States. In addition, the Connecticut River has been determined to be navigable for purposes of jurisdiction by this agency. If it is found that the Coast Guard does in fact have jurisdiction over Lake Winnepesaukee and the connecting waters, this would require the State of New Hampshire to recognize federal numbers on these waters. It would not preclude the State of New Hampshire from conducting boating safety patrols on Lake Winnepesaukee nor from enforcing speed limits or other regulations which are consistent with Federal law.

Question: What increased activity would the Coast Guard have to undertake if the Lakes and waters in question were declared navigable? What is the cost of such activity, and what resource would be required to carry out this increased activity, if any?

Answer: In the area of recreational boating only the numbering of undocumented power driven vessels would be substantially affected by a determination of Coast Guard jurisdiction. In addition, Coast Guard boating safety teams occasionally visit inland waterbodies which are part of the navigable waters of the United States for purposes of enforcement of Federal boating safety regulations and education of the boating public. Assignment of these teams is on an "as needed" basis which is determined by the District Commander.

In view of the present State boating safety teams which operate on Lake Winnepesaukee, it is probable that Coast Guard presence in this capacity would be minimal. In any event, since the New Hampshire and federal boat equipment and safety requirements are essentially the same, a determination of Coast Guard jurisdiction should not create any problems in enforcement. The determination would not preclude state teams from boarding vessels bearing Federal numbers.

The establishment of aids to navigation and the provision of search and rescue capabilities are discretionary Coast Guard functions which are extended to selected areas under Coast Guard jurisdiction as the need requires, and funds appropriated by Congress allow. State, or local, aids to navigation and search

and rescue activities are not preempted, indeed they are encouraged, although the State would be expected to coordinate its aids to navigation establishment with the Coast Guard.

The inspection and certification of commercial vessels and the examination and the licensing of the personnel who man them is one area in which Coast Guard regulation would preempt any regulatory activity on the part of the State of New Hampshire. Reduced to its simplest terms, this imposes the following requirements. First, all personnel who are in charge of the navigation of vessels carrying passengers for hire are required to have a Coast Guard license. Second, all vessels carrying more than six passengers for hire are required to be inspected and carry a certificate issued by the Coast Guard.

In the area of bridge administration, a determination of navigability would bring the General Bridge Act of 1946 into play. Thus, a Coast Guard permit would be required for the building or substantial alteration of any bridges over the waters in this system.

A determination of Coast Guard jurisdiction would have absolutely no effect on the applicability of the Federal Water Pollution Control Act. The jurisdictional definition in that Act is so broad that it clearly encompasses Lake Winnepesaukee now. What this means is that pollution control standards on Lake Winnepesaukee cannot be less stringent than the federal standards. But they certainly can be more stringent and New Hampshire standards fall in this category. Since this is the case, they are enforceable by State law enforcement authorities.

The budgetary impact of this determination on the First Coast Guard District cannot be accurately assessed at this time. A substantial commitment of manpower would have to be made initially for purposes of boat numbering and passenger vessel inspection, but this would decrease significantly after the first several months.

Question: Is an Environmental Impact Statement required on a Determination of Navigability?

Answer: No. Section 102(c) of the National Environmental Policy Act of 1969, 42 USC 4332, requires that a federal agency proposing a major action with significant environmental impact must: describe the impact; study and describe alternatives to its proposal; obtain comments from federal, state, and local agencies; and make public, in advance, its environmental analysis and the comments of other agencies. Since a Coast Guard navigability determination is a recognition of jurisdiction, rendered solely for internal agency guidance, it is not, in itself, a major federal action.

Should the initial determination be upheld after agency review, the Coast Guard will, consistent with resource availability, implement the Federal statutes applying to the navigable waters of the United States on this water system. Certain actions involved in this implementation (including perhaps the issuance of permits under the bridge statutes) may constitute "major Federal actions significantly affecting the quality of the human environment" for which an environmental impact statement may be required. But it would be premature to file an environmental impact statement before implementation of some substantive Coast Guard program on the Lakes.

Question: Why did Admiral Pearson recommend against declaring the waters in question navigable?

Answer: After having received draft environmental impact statements relating to proposed bridge construction by the State of New Hampshire over two segments of the water system, it became necessary for the Commander of the First Coast Guard District to determine whether these waters were a part of the navigable waters of the United States, in order for this agency to carry out its statutory responsibilities for issuance of bridge permits, pursuant to the General Bridge Act of 1946. The Bridge Administration staff of the First Coast Guard District conducted extensive field investigations and, on two occasions referred the results of these factual investigations to the First Coast Guard District Legal Officer for his opinion as to whether the Coast Guard had any jurisdiction over the waterway in question.

After an in-depth review of the relevant factual material, the District Legal Officer prepared an opinion that the water system was part of the navigable waters of the U.S. and subject to Coast Guard jurisdiction. Because of limited resources, and in recognition of the public controversy that such a determination would create, the District Staff personnel responsible for recreational boating activities vigorously opposed any recognition of Coast Guard jurisdiction. Because of the controversial nature of the determination Rear Admiral Helmer S. Pearson, then Commander of the First Coast Guard District, requested that the Commandant resolve the issue.

Question: Summarize the actions taken by the Federal Government concerning the question of navigability on the inland waterways of the Merrimack River in New Hampshire, Lake Winnisquam, Lake Winnepesaukee, and their connecting waters.

Answer: The Bridge Administration Staff of the First Coast Guard District conducted several field investigations in order to compile relevant factual material regarding the geography and historical background of the water system. The district legal officer made a preliminary determination that a significant portion of the water system was part of the navigable waters of the United States. The Commander, First Coast Guard District submitted all of the collected data (including the recommendations of his staff) to the Commandant, U.S. Coast Guard, and requested that a formal determination be made.

After an extensive legal review at Headquarters, the subject determination was made. Because of the intense interest displayed by the State of New Hampshire and its U.S. Congressional delegation, the Commandant, on March 31, 1976, agreed to once again review the determination. Pending the outcome of this review, the prior determination has been revoked. No substantive action has been taken by the Coast Guard in relation to implementation of any program, as a result of this prior determination. Since the determination was made solely for Coast Guard purposes, it is doubtful that its publication has affected any other Federal agency.

DEPARTMENT OF TRANSPORTATION,
U.S. COAST GUARD,
Boston, Mass., April 4, 1976.

Mr. ALTON H. STONE,
Director, Division of Safety Services, Department of Safety, John O. Morton Bldg., Concord, N.H.

DEAR AL: Enclosed is a letter from the Commandant giving basic approval of your proposed new boat numbering legislation. One minor correction is that Section 270-C:11 references the Federal Boating Act of 1958. This bit has been superseded by the Federal Boat Safety Act of 1971.

When the proposed law is approved by the legislature, it should be submitted in accordance with Title 33, Code of Federal Regulations 174.7 which states in part that an authorized representative of the State must submit three copies of the State laws, regulations, forms and policy statements, if any, that pertain to the numbering system or revision to the U.S. Coast Guard (G-B/SAC), Washington, D.C. 20590.

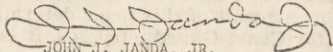
If this can be done prior to 1 July 1975 there is a strong possibility that additional funds (about \$40,000) can be made available to you from the FY 75 Financial Assistance Program.

Please call if I may be of assistance.

Sincerely,

RAYMOND E. WOMACK,
*Commander, U.S. Coast Guard
Chief, Boating Safety Division,
by direction of the Commander,
First Coast Guard District.*

Enclosure.

TRANSPORTATION U.S. COAST GUARD CG-3083 (REV. 5-67)	6 APR 1975	U. S. COAST GUARD	RAPIDRAFT LETTER
ORIGINATOR - Use for routine correspondence not requiring action, review, or comment by officers in the chain of command. Send original and blue copy to addressee. Retain yellow copy for file.	ADDRESSEE - Reply hereon, returning original to originator. Retain blue copy for file.	(One box must be checked) <input type="checkbox"/> AIR MAIL <input checked="" type="checkbox"/> REGULAR MAIL <input type="checkbox"/> CERTIFIED MAIL <input type="checkbox"/> SPECIAL DELIVERY <input type="checkbox"/> REGISTERED MAIL	
DO NOT MAIL IN WINDOW ENVELOPE WHEN CLASSIFIED		STAFF BYMBOL AND FILE NO.	G-BD 5900
Commander First Coast Guard District (b) J. F. Kennedy Federal Building Government Center Boston, Massachusetts 02203		DATE	1 April 1975
(Fold)		PREPARE BY HAND OR TYPEWRITER	
Subj: Proposed New Hampshire Legislation for Boat Numbering System; evaluation of			
Ref : (a) CCGD1 (b) ltr 5900 of 7 Feb 75 to Commandant (G-BD) (b) Telecon of 1 April 1975 between CDR Womack/CDR Janda			
This is to advise you that the Chief Counsel has reviewed the subject bill and basically did not find it to be in conflict with the Federal Boat Safety Act of 1971. Details of the Chief Counsel's decision are contained in enclosure (1)			
As discussed in reference (b), the State Boating Law Administrator for the State of New Hampshire should be advised of the above and of the required timeliness of necessary legislative action in order to fully participate in the FY 75 Financial Assistance Program.			
Encl: Copy of Chief Counsel's memo to Chief, Office of Boating Safety		 JOHN J. JANDA, JR. By direction	
Reply (if required)			
SENDER'S MAILING ADDRESS	Commandant (G-BD) U. S. Coast Guard Washington, D. C. 20590	DOWNGRADING/DECLASSIFICATION STAMP AS REQUIRED	
		CLASSIFICATION STAMP AS REQUIRED	
PREVIOUS EDITIONS MAY BE USED			

Shoot at 60%

To: Chief, Office of Boating Safety.

From: Chief counsel.

Subject: Proposed N.H. Legislation for Boat Numbering System; opinion concerning

References: (a) G-B/SAC memo to Chief Counsel of 10 March 1975;

(b) New Hampshire RSA 270 et. seq.

1. Reference (a) requests a legal opinion concerning whether the subject bill is in compliance with the Federal Boating Safety Act of 71 to the extent necessary for your office to recommend the Commandant's approval of the proposed state numbering system thereunder. Specifically, you ask whether § 270-C:4I of the bill is violative of the meaning in section 18(C) of the FBSA of 71. It is my opinion that the proposed registration fee is a user tax and not a dual numbering system for out of state vessels. Its imposition would not be a refusal by the state of New Hampshire to grant reciprocity to the numbering system of a sister state and thus would not be in contravention of §18(C) of the FBSA of 71. The constitutionality of such a tax will not be considered in this opinion.

2. The subject bill is a proposed amendment to reference (b), the presently existing N.H. Boating Act. Under this proposal none of the current law would be repealed. Under § 270:3 of this present act, all owners of boats must "register" their boats. In the case of boats with outboard motors, the motor itself is registered. Registration is accomplished by payment of a tax, the amount of which varies with boat size and use. The maximum fee for an outboard motor is \$5. Under §270:15, upon payment of the registration fee, the applicant is issued a registration certificate and a number plate under the N.H. numbering system.

3. The proposed amendments would adopt the Federal numbering system as State law, thereby bringing N.H. law into compliance with the FBSA of 71. § 270-S:4I of the bill specifically exempts from the application of the Act those boats which are properly registered under Federal law or under a Federally approved numbering system. Thus, full reciprocity, as required under § 18(C) of the FBSA of 71, is guaranteed. Under the revised program, N.H. owners of motor powered boats must still apply for the registration certificate described in para 2 above. Upon payment of the proper fee, the owner is issued a N.H. registration certificate and boat number under the design of the Federal program. There is no additional charge for issuance of the boat number beyond the registration fee itself. Other provisions in the bill require display of the number in a manner consistent with the FBSA of 71.

4. Under the latter portion of § 270-C:4, when a "vessel is operated on waters under the *sole jurisdiction* of New Hampshire, it shall be required to display proof of payment of the New Hampshire boat registration fee as required in RSA 270 . . ." Under my interpretation of this clause, there is no apparent conflict with § 18(c) of the FBSA of 71. It should be noted that § 270-C:4 is couched in terms of vessels operated on waters "under the sole jurisdiction of New Hampshire." Under § 4(a) of the FBSA of 71, the terms of this Federal Act apply only to vessels on "waters subject to the jurisdiction of the United States." If the pertinent provision of the subject bill is to be applied solely to state waters, then it has no bearing on the dictates of the FBSA of 71, and should not be objectionable from the standpoint of the Coast Guard.

5. The legality of a user tax, imposed by states on vessels operated on the navigable waters of the U.S., is wholly a different matter. If a tax, similar to the one under consideration here, were applied to navigable waters of the U.S. (as clearly the N.H. bill does not) there would be no violation of § 18(C) of the FBSA, as that section only speaks of recognition of the numbering system of other states, and the N.H. bill only requires payment of a registration fee—not the display of N.H. issued numbers. It is arguable that such a tax would be in contravention of the general policy of "uniformity of state laws" as declared in § 2 of the FBSA. However, the constitutionality of certain types of user fees has been upheld in past cases. *Sands v. Manistee River Improvement Co.* 123 U.S. 288 (1887). Suffice to say that each such tax must be considered on an individual basis, legality ultimately being determined by the state interest used as a basis for its imposition. In the event that such a tax proposal is presented to your office for consideration it should be submitted to this office for review.

C. R. HALLBERG,
Acting Chief Counsel.

Enclosure.

HOUSE BILL No. _____

INTRODUCED BY:

REFERRED TO:

AN ACT relative to adopting the federal numbering system for power boats.

ANALYSIS

This bill provides for the adoption in New Hampshire of the federal numbering system for power vessels.

Proof of the payment of the registration fees required on boat motors under the provisions of RSA 270, for use of power vessels on the inland waters of the state, shall be displayed on all vessels in addition to the federal number. However, an owner of any vessel on which said registration fee is paid to the state shall not be required to pay for the identification number issued pursuant to the federal numbering system.

An annual fee of five dollars shall be charged for the identification number.

Notwithstanding any provisions of the Federal Boating Act of 1958 to the contrary, any person operating a power vessel on the waterways solely under the jurisdiction of the state of New Hampshire shall be required to register said power vessel in accordance with the provisions of RSA 270.

STATE OF NEW HAMPSHIRE

*In the year of Our Lord one thousand
nine hundred and seventy-five*

AN ACT

relative to adopting the federal numbering system
for power boats.

*Be it Enacted by the Senate and House of Represen-
tatives in General Court convened:*

1 New Chapter. Amend RSA by inserting after chapter 270-B the following
new chapter:

Chapter 270-C

Adoption of Federal Numbering System for all Power
Operated Boats on Inland and Coastal Waters of
New Hampshire

270-C:1 Definitions. The following words and phrases shall have the fol-
lowing meaning:

I. "Numbering" shall mean the process of issuing an identification
number to a boat which is recorded on a certificate of number and is marked
and carried on the bow of the boats.

270-C:2 Operation of Unnumbered Vessels Prohibited. Every vessel using
the waters of this state shall be numbered except those exempted by this
chapter. No person shall operate or give permission for the operation of
any such vessel on such waters unless the vessel is numbered in accordance
with this chapter or in accordance with applicable federal law or in accord-
ance with a federally approved numbering system of another state and unless:

I. The certificate of number issued to such vessel is on board and in full force and effect; and

II. The identifying number set forth in the certificate of number is displayed on each side of the bow of such vessel.

270-C:3 Application. Every person owning any commercial or private boat shall annually, before operating the same, apply in writing to the director of the division of safety services for numbering thereof. Such application may be made to a duly authorized representative of said director or by mail addressed to the director of the division of safety services, and shall be in such a form and contain such information as said director may require. In the case of private boats the proper fee shall accompany the application. In the case of commercial boats the proper fee shall be paid at the time of inspection. Such fees shall be paid before the issuance of the certificate of number for the boat.

270-C:4 Exemption from Numbering Provisions. A vessel shall not be required to be numbered under this chapter if it is:

I. Covered by a certificate of number in full force and effect which has been issued to it pursuant to federal law or a federally approved numbering system of another state, provided that such vessel shall not be used on the waters of this state for a period in excess of sixty consecutive days. However, when the vessel is operated on waters under the sole jurisdiction of New Hampshire, it shall be required to display proof of payment of the New Hampshire boat registration fee as required in RSA 270; provided, however,

that for any vessel on which a registration fee has been paid to the state under RSA 270, the identification number issued pursuant to RSA 270-C:5 shall be furnished without charge.

II. From a country other than the United States, provided that such vessel shall not be used on the waters of this state for a period in excess of sixty consecutive days.

III. A vessel whose owner is the United States, a state or a subdivision thereof, used exclusively in the public service and which is clearly identifiable as such.

IV. A vessel's lifeboat if the boat is used solely for lifesaving purposes.

V. Documented by the United States Coast Guard or a federal agency successor thereto.

VI. Nondocumented vessels used exclusively for racing events.

VII. When operating temporarily by virtue of evidence that a recent application for a certificate of number has been submitted.

270-C:5 Identification Number. The owner of each vessel required to be numbered by this state shall file an application for a number with the division of safety services on forms approved by it.

I. Application Procedure. The application shall be signed by the owner of the vessel and shall be accompanied by the appropriate fee. Upon receipt of the application in approved form, the division of safety services shall

enter the same upon its records and issue to the applicant a certificate of number stating the number assigned to the vessel, the name and address of the owner and such additional information as may be prescribed by regulation issued by the director of safety services. The owner shall paint on or attach to each side of the bow of the vessel the identification number in such a manner as may be prescribed by rules and regulations of the director of safety services in order that it may be clearly visible. The number shall be maintained in legible condition. The certificate of number shall be pocket size and shall be available at all times for inspection on the vessel for which issued whenever such vessel is in operation. However, the owner of any vessel which is primarily used in the state of New Hampshire and is already covered by a certificate of number in full force and effect which was assigned to the vessel pursuant to a then operative federal law shall not be required to apply for a certificate of number under the provision of this chapter for so long as such certificate of number would otherwise be valid; but in no event for a period longer than one year after the date on which the numbering provision of this chapter is approved by the secretary of the department in which the United States Coast Guard is operating.

II. Recording of Current Number. The owner of any vessel already covered by a number in full force and effect which has been assigned to it pursuant to then operative federal law or a federally approved numbering system of another state shall record the number prior to operating the vessel on the waters

of this state in excess of the sixty-day period provided for in this chapter. Such recordation shall, upon payment of the applicable fee prescribed by this section, be in the manner prescribed by regulation of the director of safety services; provided, however, that no additional or substitute number shall be issued. This paragraph shall not apply if the state of principal use has been changed.

III. Change of Owner. Should the ownership of a numbered vessel change, a new application form with fee (or portion thereof) shall be filed with the division of safety services and a new certificate of number shall be issued in the same manner as provided for in an original assignment of number, except that where the state of principal use remains unchanged the number assigned shall be identical with the previous one.

IV. Federal Numbering System. In the event that an agency of the United States Government shall have in force an overall system of identification (numbering) for vessels within the United States, the numbering system employed pursuant to this chapter by the division of safety services shall be in conformity therewith.

V. Issuing Agents. The division of safety services may issue any certificate of number directly or may authorize any person to act as agent for the issuing thereof. In the event that a person accepts such authorization, he may be allotted a block of numbers and certificates therefor which upon assignment and issue, in conformity with this chapter, and with any rules and regulations of the division of safety services, shall be valid as if assigned

and issued directly by the division of safety services.

VI. Numbering Records to be Public. All records of the division of safety services made or kept pursuant to this section shall be public records.

VII. Registration Period. Every certificate of number issued pursuant to this chapter shall continue in full force and effect for a period of one year unless sooner terminated or discontinued in accordance with the provisions of this chapter. Certificates of number may be renewed by the owner in the same manner provided for in the initial securing of the same.

VIII. Expiration Date. The division of safety services shall fix a day and a month of the year on which certificates of number due to expire during the calendar year shall lapse and no longer be of any force and effect unless renewed pursuant to this chapter.

IX. Notice of Transfer, Destruction or Abandonment. The owner shall furnish the division of safety services written notice of the transfer of all or any part of his interest other than the creation of a security interest in a vessel numbered in this state pursuant to this section, or the destruction or abandonment of such vessel within fifteen days thereof. Such transfer, destruction or abandonment shall terminate the certificate of number for such vessel except that in the case of a transfer of a part interest which does not affect the owner's rights to operate such vessel, such transfer shall not terminate the certificate of number.

X. Change of Address. Any holder of a certificate of number shall notify

the division of safety services in writing within fifteen days if his address no longer conforms to the address appearing on the certificate and shall, as a part of such notification, furnish the division of safety services with his new address.

XI. No other Number on Bow. No number other than the number validly assigned to a vessel shall be painted, attached, or otherwise displayed on either side of the bow of such vessel.

XII. Provision for Regulations. The director of safety services shall promulgate regulations to administer the provisions of this section related to numbering applications, certificates of number, display of number, reports on change of address, destruction, abandonment, sale or transfer of ownership, and a copy of the provisions of this chapter, including any regulations promulgated pursuant thereto, shall be given to each holder of a certificate of number.

270-C:6 Fees for Numbering the Boat. There shall be an annual charge of five dollars as a fee for numbering the vessel, unless exempted under the provisions of RSA 270-C:4, I. Said fee to be paid to the director of safety services for vessels numbered by the state of New Hampshire. The number issued shall remain as the permanent number of the boat and shall be validated annually by the division of safety services.

270-C:7 Disposition of Fees. The proceeds received pursuant to RSA 270-C:6 shall be held in the state treasury in a separate account to be known as the Federal Boating Numbering Account. This shall be a continuing appropriation

and shall not lapse. The director of safety services is authorized to pay from said account all expenses incidental and necessary for the issuance of certificate of number, and validation of certificate of number, and may, subject to state personnel regulations, employ such clerical and enforcement personnel as he deems necessary for effectuating the purposes of this chapter; provided, however, in order to accomplish these purposes, the director may expend a sum not to exceed thirty thousand dollars in any fiscal year in anticipation of the actual receipt of fees into the special account.

270-C:8 Accident Report Required. In the case of a reportable boating accident, the operator of any vessel involved shall file with the division of safety services a full description of the accident, including such information as said agency may, by regulation, require. If the operator or owner is incapable of making such report the investigating officer shall submit such report.

270-C:9 Protection of Accident Reports. Any such report shall be without prejudice, shall be for the information of the division of safety services and shall not be open to public inspection. The fact that such report has been made shall be admissible in evidence solely to show compliance with this section but no such report nor any part thereof nor any statement contained therein shall be admissible as evidence for any purpose in any trial, civil or criminal.

270-C:10 Transmittal of Information. In accordance with any request duly made by an authorized official or agency of the United States, any information

compiled or otherwise available to the division of safety services pursuant to RSA 270-C:3, 8 and 9 shall be transmitted to said official or agency of the United States for analytical and statistical purposes.

270-C:11 Limitation of the Federal Boating Act of 1958. Notwithstanding any provisions of the Federal Boating Act of 1958 to the contrary, any person using a power vessel on the waterways solely under the jurisdiction of the state of New Hampshire shall be required to register said power vessel in accordance with the provisions of RSA 270 and this chapter.

2 Effective Date. This act shall take effect January 1, 1976.

DEPARTMENT OF TRANSPORTATION,
U.S. COAST GUARD,
Washington, D.C., May 17, 1976.

HON. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in reply to your letter of May 4, 1976, in which you invited my response to the testimony presented before your committee at recent hearings in Concord, New Hampshire, concerning proposed legislation to exempt certain inland waters of that state from application of the Federal Boat Safety Act of 1971, (46 U.S.C. 1451 et seq.). Since the Coast Guard has been given a previous opportunity to comment on H.R. 5630 and S. 3214, I will not reiterate our remarks on the specifics of those bills. Below is a brief background synopsis of Coast Guard involvement in this controversy, as well as remarks to several of the incorrect accusations which were made regarding this agency by participants at the hearings.

As I am sure you are aware, the Coast Guard is charged with the administration of a number of statutes which apply to the navigable waters of the United States, including 33 U.S.C. 401 and related statutes covering the construction of bridges, and the Federal Boat Safety Act of 1971, which regulates recreational boating. In order to carry out its responsibilities the Coast Guard must, from time to time, determine for itself the geographical extent of its authority under these statutes. These determinations, which are controlling only upon the Coast Guard program administrators, involve the applications of legal principles enunciated by the courts to the relevant facts concerning the physical characteristics and use, both actual and potential, of the particular waterways where the question arises.

The Coast Guard does not have the resources to determine the jurisdictional status of every waterbody in the United States. However, if the status of a waterbody is questioned because of a particular Coast Guard program requirement then the Coast Guard will determine the juridical status of the waterbody. A jurisdictional determination concerning Lake Winnepesaukee became necessary when the State of New Hampshire proposed to construct bridges over the "narrows" of Lake Winnisquam, New Hampshire, and over the Smith River between Lakes Winnepesaukee and Wentworth, New Hampshire.

In connection with this proposed construction, the Department of Public Works and Highways for the State of New Hampshire submitted a draft environmental impact statement to the Commander of the First Coast Guard District in Boston for his review. One of the Coast Guard's statutory responsibilities under the above cited bridge act is the approval (by permit) of the location and plans of bridges over navigable waters of the United States. If a waterway is in fact navigable, then numerous considerations come into play in the Coast Guard bridge review process, the two most important being environmental protection and prevention of obstructions to commercial navigation. Thus, an internal agency determination regarding the jurisdictional status of these waters became necessary before initiation of the bridge review process.

After a lengthy background field investigation, and thorough legal analysis at both the district and headquarters levels, the determination was made that Lakes Winnepesaukee, and Winnisquam, the Merrimack River, and their interconnecting waterways (but not Lake Wentworth or the Smith River) were a part of the navigable waters of the United States and waters subject to the jurisdiction of the United States for purposes of Coast Guard jurisdiction. Once the Coast Guard determines a waterbody to be part of the navigable waters of the United States for purposes of Coast Guard jurisdiction, it is part of the navigable waters of the United States for purposes of all laws the Coast Guard administers.

The decision generated a great deal of opposition from the elected officials of the State of New Hampshire, apparently for two reasons. First, the decision appeared illogical to persons who are unfamiliar with the controlling federal case law on "navigability," since certain segments of the water system are not currently navigable in fact. Second, evidently some of these officials overestimated the actual impact of the determination on the existing state administered boating safety program on Lake Winnepesaukee. In answering the numerous written inquiries that the Coast Guard has received on this matter, we have attempted to impress on the concerned persons that Coast Guard enforcement of the Federal Boat Safety Act of 1971 on this lake would have no appreciable

effect on the New Hampshire boating safety program. Indeed, should the State of New Hampshire enact legislation providing for a state numbering system for boats which is consistent with Section 18(a) of the Act (46 U.S.C. 1467(a)), then the revenues received through Federal grants and through collection of boat registration fees may very well increase the State's financial resources for maintenance of the safety program, a fact that was recognized at the hearings by the State Boating Safety Program Administrator. Thus, the excellent work now being done in the State of New Hampshire would hopefully continue, as the determination in no way inhibits the rights of the state to administer that program. Application of the Federal Boat Safety Act of 1971 will not result in a lowering of safety standards which currently apply on Lake Winnepesaukee.

Several speakers at the hearing stated that the rationale behind the subject determination was a preconceived notion by the Coast Guard that this was a convenient means of forcing the State of New Hampshire into adopting an approved numbering system for recreational boating. I take strong exception to these accusations. The fact that New Hampshire does not have an approved numbering system in no way was a factor under consideration when the Coast Guard made this determination. The determination was based solely on existing factual data as applied to the prevailing rules of law on navigability. While I have recognized that state adoption of an approved numbering system will provide an additional source of revenue for the New Hampshire boating program, this fact had no bearing on my decision with regard to the navigability of Lake Winnepesaukee.

Comments were made at the hearing that the Coast Guard lacks the resources to do an adequate job of taking over the functions of the state boating safety program. It has never been the intent of this agency to displace any New Hampshire boating safety program, and nothing prevents its continuation. While I would agree with the evaluation of the limited nature of Coast Guard resources, this has no bearing on the jurisdictional issue. A jurisdictional determination is not governed by the existence of financial constraints on operations, but by rule of law. Nevertheless, in view of the economic constraints on this agency, as well as the high quality of the state administered boat safety program, it is probable that Coast Guard presence on the waters in question, in the form of boating safety detachments, would be infrequent.

In making a determination regarding the extent of federal jurisdiction over internal waterbodies, the Coast Guard must follow the rules of law and definitions of "navigable waters of the United States" that have been created by judicial determinations over the years. While portions of the waterbodies are not currently navigable in fact, the prevailing rule of law is that obstructions to navigation are not necessarily controlling in this regard, so long as the historical background suggests past susceptibility to development for commercial navigation.

The specific tests used to support the finding that the waters are navigable waters of the United States are the tests enunciated in the following judicial decisions, among others: *The Daniel Ball*, 10 Wall 557 (1870); *U.S. v. Appalachian Electric Power Co.*, 311 U.S. 377 (1940); and *Economy Light and Power Co. v. U.S.*, 256 U.S. 113 (1920). Briefly, those cases hold that waters are navigable waters of the United States when they are or have been used, or are or have been susceptible for use, by themselves or in connection with other waters, as highways for substantial interstate or foreign commerce, notwithstanding natural or manmade obstructions that require portage. Also, if a waterbody is capable of being improved at a reasonable cost to provide, by itself or in connection with other waters, a highway for substantial interstate or foreign commerce, then it would be considered part of the navigable waters of the United States. Concerning the Winnepesaukee determination, the Coast Guard concluded that the major portion of the chain of waterways was navigable in fact, that commercial navigation has been maintained in the past or is currently present on a large segment of the system, and that prior plans and studies concerning both the dredging of the waterway and the construction of parallel canal works conducted by private individuals, private companies under State charter, and the U.S. Army Corps of Engineers, showed the economic feasibility of development of the entire waterway for purposes of interstate navigation. A copy of the initial Coast Guard determination of September 2, 1975, is enclosed for your information.

In early March of this year, Secretary Coleman and I met with the Attorney General of the State of New Hampshire, the Honorable David H. Souter, to

discuss this matter. The Attorney General alleged that the Coast Guard had failed to consider certain geographic and historic facts which were currently available. To accommodate this position, on March 31, 1976, it was agreed to temporarily revoke the determination pending a complete review of all available and any new factual data. My legal staff will be initiating that review in the near future, and the Attorney General, as well as other interested parties, have been invited to participate therein by submission of relevant data which they believe have a bearing on the jurisdictional status of the water system.

Mr. Souter's testimony at the Concord hearing did not add any new factual information to our current file. I am aware of the case of *Marine Office of America v. Manion*, 241 F. Supp. 621 (1965), in which a Massachusetts federal district court held that Lake Winnepesaukee was not within the admiralty jurisdiction of federal courts. Certainly this case will be considered in the upcoming review. However, the plaintiff in that case failed to produce any evidence of the historical use of this water system, a matter which was determinative in the court's decision. On the other hand, the factual data currently available is rather extensive.

Mr. Souter alleged that the "cost/benefit" test of the *Appalachian* case has been misapplied because construction of parallel canal works is not "improvement" of the water system for commercial navigation, and issuance of a state charter is not, in itself, evidence of recognition by the state legislature of the economic feasibility of such improvement. I will reexamine these and other aspects of the determination in my review. Further, Mr. Souter has complained of the laxity of the Coast Guard in completing this review. The current time extension was made in order to provide the State Attorney General with ample opportunity to document his allegations that the Coast Guard had failed to consider relevant factual data. The Coast Guard is prepared to initiate this review upon receipt of these materials.

As stated earlier, a Coast Guard navigability determination has a bearing only upon operations within this agency. Thus, it has no bearing on the jurisdiction of the Army Corps of Engineers, nor upon the civil liability limitations under federal admiralty jurisdiction, as suggested in the hearings. It is true that state agencies were not consulted in making the initial determination. However, this was not a "willful design to maintain secrecy" on the part of the Coast Guard. Rather, public notice and hearings are not offered in these internal determinations because they are neither regulatory nor judicial in nature.

Section 102(c) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332, requires that a federal agency proposing a major action with significant environmental impact must: describe the impact; study and describe alternatives to its proposal; obtain comments from federal, state, and local agencies; and make public, in advance its environmental analysis and the comments of other agencies. Since a Coast Guard navigability determination is a recognition of jurisdiction, rendered solely for internal agency guidance, it is not, in itself, a major federal action. Should the initial determination be upheld after agency review, the Coast Guard will, consistent with resource availability, implement the federal statutes applying to the navigable waters of the United States on this water system. Certain actions involved in this implementation (such as the issuance of permits under the Bridge statutes) may constitute "major federal actions significantly affecting the quality of the human environment" for which an environmental impact statement may be required. But it would be premature to file an environmental impact statement before implementation of some substantive Coast Guard program on the Lakes. To date, no Coast Guard programs have been implemented, nor have any resources been committed in New Hampshire, as a result of the subject determination.

The Coast Guard navigability determination has no bearing on the application of the Federal Water Pollution Control Act, 33 U.S.C. 1321 et seq., and other related pollution statutes. Federal jurisdiction under this statute is dependent on a broader judicial definition, and has existed for the Winnepesaukee water system since its enactment. The Coast Guard navigability determination has absolutely no bearing on the state administered "no discharge" standards for marine sanitation devices. The federal regulations governing these standards were recently issued by the Environmental Protection Agency, and may be found at 40 CFR 140.1-140.5. It appears from a review of those regulations that a "no discharge" standard is appropriate for Lake Winnepesaukee. In the event that it is not, the State of New Hampshire may retain its present standard by making application to the EPA under Section 312(f) (4) of the Federal Water Pollution Control Act, for imposition of a no discharge regulation for this waterbody.

In answer to several other statements made at the hearing, the determination has no bearing on the right of the State of New Hampshire to maintain aids to navigation on the lakes, to offer law enforcement services, to determine proper lake water level, or to eradicate algae growth in the lakes.

Thank you for this opportunity to comment on the transcript of these recent hearings. I trust that I have been responsive to all of the testimony which was offered.

Sincerely,

O. W. SILER,

Admiral, U.S. Coast Guard Commandant.

SOME NEW HAMPSHIRE BOATING SAFETY HISTORY

1881—Year when Legislature enacted first law for inspection of public boats. Reason: Near sinking of re-built Str. Winnepesaukee off Rattlesnake Island in 1880.

1889—First appropriation of \$1,000.00 for buoys.

1915—Legislative Act gives control to Public Service Commission (PSC) and requires license for private craft.

1916—First year of private registration. Number of boats—1,509. Fees \$1,509.12

1931—New Hampshire started placing Flashing Navigational lights on public waters—the first ones were on Winnepesaukee and Winnisquam.

1961—Legislation created Department of Safety and Boating went from Public Utilities Commission to Division of Safety Services.

The Boating Registration and Navigational Aids have increased to the present.

BOAT REGISTRATIONS

Year:	Total boats registered	Year:	Total boats registered
1965.....	40,790	1971.....	47,120
1966.....	41,929	1972.....	46,045
1967.....	43,326	1973.....	45,013
1968.....	45,973	1974.....	45,157
1969.....	45,674	1975.....	44,340
1970.....	47,322		

REGISTRATION FEE SCHEDULE

Outboard motors:	
5 horsepower and under.....	\$4.00
5.1 horsepower to 13.9 Horsepower.....	5.00
14 horsepower and over.....	6.00
Inboard motors:	
18 ft and under.....	6.00
Over 18 ft through 26 ft.....	9.00
Over 26 ft.....	11.00

DIVISION EQUIPMENT AND PERSONNEL

Employees:

- 72 seasonal boat inspectors with enforcement powers
- 3 seasonal radio dispatchers
- 3 year round maintenance men
- 3 year round administrators and enforcement officers
- 1 year round steno and clerk
- 1 seasonal receptionist and steno

Boats:

- 36 State owned patrol boats
- 38 privately owned boats rented by the State
- 16 State boats with radios
- 11 of these boats have communications with marine control
- 4 boats with communications with State police
- 2 boats with communications with Sullivan County
- 1 boat with communications with Grafton County
- 1 boat with communications with Carroll County
- 1 boat with communications with Belknap County

Vehicles:

- 1 Ford van
- 1 International 4-wheel drive truck
- 3 cruisers (radio equipped)—administration and enforcement
- 2 education vehicles
- 11 boat trailers
- Large boathouse and dock complex on Winnepesaukee

The New Hampshire Department of Safety maintains patrol boats on Winnepesaukee from "ice out" in the spring until "ice in" in the fall. As soon as the ice is out in the spring the work boat and crew start maintenance work immediately. This is installing lights and replacing damaged buoys. Also any buoys that have been moved by ice action must be repositioned. This boat is radio equipped and answers complaints at this time.

At night we have men on standby at their homes and usually can have a patrol boat moving in 15 minutes.

Patrols usually start Memorial Day Weekend and increase to twelve (12) full time patrol officers and three full time Dispatchers by the 15th of June. At least 5 radio equipped patrol boats are on the lake from 8:00 a.m. to 1:00 a.m. the following morning seven days a week. When these boats are in their areas we can dispatch one to any spot on the lake usually in less than five (5) minutes.

On Holiday weekends and some evenings Patrols may run around the clock.

After Labor Day Patrols begin to taper off until Columbus Day, when Patrols are only run on weekends. Here again, the work boat and crew cover in the daytime and men are on standby at night.

BOATS

Winnepesaukee:

- 8 22-foot Century inboard patrol boats
- 1 26-foot Steelcraft work boat
- 1 15-foot Crestliner outboard instruction boat

Winnisquam: 1 22-foot Century inboard patrol boat

At least five daily patrols are maintained on Lake Winnepesaukee from 8AM to 1AM during the height of the boating season. Patrol boats and patrolmen are available, and on call 24 hours per day from ice out to ice in. Average fuel consumed by our 22 foot Century per day on patrol is 35 gallons.

NAVIGATIONAL AIDS

Winnepesaukee:

77 lights at \$300 each.....	\$23, 100
534 16-ft buoys at \$30 each.....	16, 020

Winnisquam:

13 lights at \$300 each.....	3, 900
64 mixed 8-ft and 16-ft buoys.....	1, 000

There are approximately 100 regulatory signs used on these bodies of water. The cost of each complete sign varies because of different installations. A fair average would be \$35 each. These figures are on the low side.....

3, 500

47, 520

NAVIGATIONAL AIDS

	<i>Cost per unit</i>
Whelan Model FB107 floating lights.....each	\$280. 00
16-ft wooden spar buoys.....do	12. 20
8-ft wooden spar buoys.....do	4. 27
Regulatory signs.....do	6. 00-8. 00
Large cement anchors.....do	3. 00
Steel shackles.....do	8. 00
$\frac{3}{8}$ -galvanized chain.....per ft	. 80
$\frac{1}{16}$ -galvanized chain.....do	. 22 $\frac{1}{2}$
Cement blocks.....each	. 28
Reflective tape (8 rolls per year).....per roll	25. 00
Dry cell batteries.....each	1. 79
Floats.....do	50. 00
Fluorescent red buoy paint.....per gal	24. 45
Regular buoy paint.....do	8. 45

The Whelan Model FB107 Floating Light (\$280.00) comes to us unassembled and unpainted. Each light initially requires 8 dry cell batteries (\$14.32) each year. A large cement anchor (\$3.00) and one steel shackle (\$8.00) are used with each light.

Various lengths of 3/8 galv. chain (\$.80 per ft.) are used with these lights depending on the depth of water they are placed in.

The 16 ft. spar buoy (\$12.20) comes to us unpainted. Each of these requires one cement anchor (\$3.00) and one steel shackle (\$8.00).

The 8 foot spar buoy (\$4.27) comes to us unpainted. Each of these requires two cement blocks (\$.56) for an anchor and three to eight feet of 3/16 galv. chain (\$.22½) per foot.

Colored reflective tape is put on each buoy for easy night identification.

The regulatory signs (\$6.00-8.00) are sometimes simply nailed to buildings or trees. Sometimes they are placed in the water on steel posts driven into the bottom and sometimes they are made up to float. These floating signs are usually two signs bolted back to back each side of aluminum tubes (\$12.00). The tubes run through a float (\$50.00). The bottom of the tube is chained to an anchor (\$3.00) by various lengths of 3/8 chain (\$.80) per foot.

None of the above figures include the labor involved in painting, assembling, and installing these navigational aids. Also, various bolts, nuts, washers, swivals, etc. are used in the installation.

The installation and maintenance of these items require two men and a large eelcraft work boat, equipped with a winch.

LAKE WINNIPESAUKEE ACTIVITIES—1975

Items	May and June	July	August	September	Total
Number of recorded stops.....	530	939	750	57	2,276
Radio transmissions.....	3,038	5,316	6,027	1,302	15,683
Phone calls received.....	170	1,224	1,240	269	3,503
Boat accident investigations.....	7	6	7	1	21
Aids to public.....		50	73	12	135
Aids to other departments.....		43	47	11	101
Complaints answered.....		186	221		407

TOTAL HOURS ON LAKE WINNIPESAUKEE

	Hours worked	Total amount paid
Supervisor: Douglas A. Whittum.....	642 at \$4.5266	\$2,906.08
Inspectors:		
David Ivester.....	578 at \$3.0653	1,771.74
James Hopgood.....	324 at \$2.9692	962.02
Richard Hopgood.....	498 at \$3.0653	1,526.52
Barry Tibbetts.....	289 at \$3.0653	855.87
Russell Vaiden.....	633 at \$3.0653	1,940.33
Reed Stevens.....	504 at \$3.0653	1,544.91
John Warner.....	349 at \$3.0653	1,069.79
David Johnston.....	479 at \$3.0653	1,468.28
Richard Noel.....	200 at \$3.0653	613.06
James Hayes.....	424 at \$2.9692	1,258.94
Jamie Martin.....	64 at \$2.9692	190.03
Dispatchers:		
Forrest Anderson.....	649½ at \$3.3232	2,158.42
Ed Cheney.....	497½ at \$2.8901	1,437.86
Wendy Schmid.....	363 at \$3.0653	1,112.70
Total.....	6,494	20,846.55
Inspector: Vincent Kondrotas (Winnisquam).....	561 at \$3.0653	1,719.63

Boating safety program activities in the Lakes Region

Total boating safety programs.....	35
Adults in attendance.....	228
Youths in attendance.....	710
Radio interviews.....	3
T.V. interview.....	1
Boat shows.....	3
Boat inspection programs.....	4
Approximate hours of instruction ¹	75

¹ This figure does not include travel by car or boat to or from the program.

THE STATE OF NEW HAMPSHIRE DEPARTMENT OF SAFETY DIVISION OF SAFETY SERVICES

Boat inspector reports	Number of underage observer	No. ski belt	Safe passage w/ skier	Skating after sunset	Number of defective fire extinguishers	Number of defective lights	Number of defective horns	Number of sufficient PFD's	Number of registration plate	Number of registration certificate	Rou-tine—OK	Safe passage	Moored to buoy	Not dis-playing plate	Riding on bow or gunwale	Reckless conduct/ operation
May and June 1975:																
Hoggood, R					3	9	1	1		1	11	9	9	2	1	
Investor, D					5		10	8		11	8	16		7		
Johnston, D						1	3	4			19	12		6		
Kondrotas, V					3			4			12	3		4		
Stevens, R						2			2							
Tibbetts, B			2	1	4	5	3	10	2	2	1	10		7	4	
Vaiden, R					1	3		1	1	2	2	19		6	1	
Whittum, D			1						10	4	30	2	1	5	4	
Hayes, J					1			1			4			2		
Total		2	2	2	17	21	17	28	25	20	87	71	1	39	10	
July, 1975:																
Kondrotas			2	2	12	10	8	8	4	2	51	8				
Noel					2	2	3	2						1		
Hoggood, R					4	4	1	1				15	2		2	
Tibbetts			3	2		7	1	3			5	14			3	
Hoggood, J									2						5	
Investor					7	1	13	6	12	8	12	14		4	5	
Stevens					4	2								6		
Johnston			1		1				1		5	14	3			
Hayes			1						1		26					
Warner					2		1	1		1	5			1		
Vaiden					6	13	2	1	2		29	13		12	3	
Whittum					1	2	1		1	1	4		2	10		
Costello												16				
Total		7	4	4	41	41	30	20	27	17	167	118	9	23	28	

Boat inspector reports—	D. E. tags	Oral warnings	Summons	Under-aged operator	Aids to public	Aids to other departments	Com-plaints answered	Phone calls received	Radio calls transmitted	Miscellaneous	Search for lost boats	Drown-ings investi-gated	Boat accidents investi-gated	Written warnings	Total number of violations
May and June 1975:															
Hopgood, R.....	12	2													63
Ivester, D.....	19													32	1,127
Johnston, D.....	4													14	60
Kondrotas, V.....	5	4												5	42
Stevens, R.....	2	2												2	13
Tibbetts, B.....	15	5												13	84
Vaiden, R.....	4													19	57
Whittum, D.....		15												70	7
Hayes, J.....	2													2	14
Total.....	63	28						770	3,038			3	7	97	530
July 1975:															
Kondrotas.....	13	3	13							4				25	168
Noel.....	3													8	26
Hopgood, R.....	6	4	2											15	52
Tibbetts.....	11	21	1							2				14	92
Hopgood, J.....	1	1												11	24
Ivester.....	29													58	171
Stevens.....	10	2												5	45
Johnston.....	4													22	69
Hayes.....	2	1												7	25
Warner.....	3	11												21	105
Vaiden.....	15	5	2							4				22	93
Whittum.....	2	12												22	36
Costello.....														2	30
Total.....	99	60	18		50	43	186	1,224	5,316	10	16		6	210	888

ACCIDENT SUMMARY

Year	Total boats registered	Fatalities	Injuries
1965	40,790	2	21
1966	41,929	0	16
1967	43,236	2	21
1968	45,973	7	55
1969	45,674	5	23
1970	47,322	0	29
1971	47,120	4	27
1972	46,045	12	13
1973	45,013	10	22
1974	45,157	9	12
1975	44,340	4	20

NEW HAMPSHIRE, 1975 ACTIVITIES

Month	Suspension	Aids	Summons	Warnings	Checkups	D.E. tags	Total
May		12		57	282	34	385
June	4	183	7	756	2,028	255	3,233
July	18	509	43	1,389	3,506	463	5,928
August	2	241	41	1,640	3,316	303	5,543
September	5	242	4	146	965	169	1,531
October		39		4	240	16	299
Total	29	1,226	95	3,992	10,337	1,240	16,919

SAFETY SERVICES, DIVISION OF WATERCRAFT SAFETY, FINANCIAL ANALYSIS

REVENUES

Receipt account	Classification	Fiscal year ending June 30, 1975	For the period July 1, 1975-Feb. 28, 1976	Fiscal year 1976 estimated	Fiscal year 1977 estimated
1207	Boats—license	\$1,092.00	\$732.00	\$900.00	\$900.00
1208	Boats—registration	216,264.45	81,126.50	200,000.00	200,000.00
1373	Boats—initial	910.00	215.00	1,050.00	1,050.00
1419	Boats—fines	758.80	590.00	900.00	900.00
1215	Water Resources	145,425.00	17,499.00	45,000.00	45,000.00
Total		\$264,450.25	100,162.50	\$247,850.00	\$247,850.00
	Anticipated ²		158,831.00		
			258,993.50		

¹ This item represents \$1 of each boat registration fee allocated to the Water Resources Board for the upkeep of dams, etc.

² Anticipated revenues for the period Mar. 1-June 30, 1976, are based on 1975 activity for the same period.

EXPENDITURES—GENERAL FUND APPROPRIATIONS

	Fiscal year ending June 30, 1975		Fiscal year 1976—for period July 1, 1975– Feb. 28, 1976		Fiscal year 1977 approp- riation	Description
	Appro- priated	Expended	Appro- priated	Expended		
Permanent person- nel services.	\$56,310.00	\$55,920.79	\$56,619.00	\$39,904.60	\$56,118.00	(1) Supervisor of navigation (3) maintenance mechanic; (1) account clerk; (1) clerk steno.
Current expenses	46,307.00	46,133.56	49,447.00	42,350.71	51,000.00	Consummables; boat gas and oil; rent; telephone and tele- graph utilities.
Equipment	30,000.00	29,437.20	9,480.00	7,931.34	12,160.00	Automobile; boats; office equipment.
Other personnel services.	94,451.00	94,450.82	86,168.00	73,356.67	83,400.00	(2) account clerks (1) boating safety supervisor (one-half year only); boat inspectors.
Fringe benefits	15,711.02	11,860.84	12,007.00	7,606.00	12,107.00	BC/BS; retirement; FICA and life insurance.
In-State travel	12,248.46	7,034.19	10,700.00	8,489.44	11,000.00	Operation of State automobiles mileage, etc.
Out-of-State travel	550.00	264.40	100.00	4.65	100.00	Meetings as authorized by G&C.
Boat rentals	21,100.00	21,066.51	25,500.00	13,423.21	25,500.00	Inspectors.
Salary of director	16,571.00	15,690.64	16,416.00	11,029.22	16,156.00	
	293,248.48	281,858.95	266,437.00	204,096.60	276,541.00	
Lapsed to general		11,389.53				
	293,248.48	293,248.48				

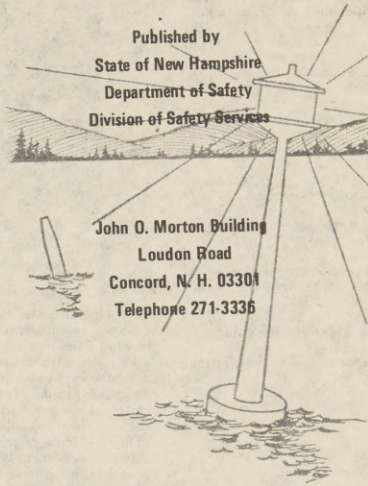
EXPENDITURES—FEDERAL BOATING GRANT NO. 140133—PERIOD OF GRANT JUNE 18, 1974—NOV. 1, 1976

	Fiscal year ending June 30, 1975		Inter-class transfers	Carryover to Fiscal year 1976	Expended during July 1, 1975– Feb. 28, 1976	Description
	Appropri- ated	Ex- pended				
Current expenses	\$2,600.00	\$1,214.01	(\$1,385.99)	0	0	Supplies etc. identifiable water safety program.
Other personnel services.	24,570.00	24,539.00	7,188.25	\$7,219.25	\$4,266.94	(1) Boating education officer; boat inspectors.
Fringe benefits	2,430.00	1,559.43	(1.76)	868.81	209.00	BC/BS; Ret.; FICA; life insur- ance.
In-State travel	11,000.00	5,568.00	(5,432.00)	0	0	Operation of State owned automobiles; gas and oil for boat.
Out-of-State travel	800.00	0	(200.00)	600.00	428.14	Director.
Other expenditures	5,010.00	4,841.50	(168.50)	0	0	Boat rentals.
	46,410.00	37,721.94	0	8,688.06	4,904.08	
Balance available to expiration of grant Nov. 1, 1976.					3,783.98	
				8,688.06	8,688.06	

EXPENDITURES—FEDERAL BOATING GRANT NO. 1501-33—PERIOD OF GRANT MAY 15, 1975 TO JAN. 31, 1978

	Fiscal year 1976 for the period July 1, 1975—Feb. 28, 1976		Description
	Appropriated	Expended	
Current expenses.....	\$4,644.00	\$249.11	Supplies, etc., identifiable with water safety program.
Other personnel services.....	17,758.00	10,279.98	(1) Assistant supervisor of navigation, boat inspectors.
Fringe benefits.....	1,775.80	495.71	BC/BS; retirement; FICA; life insurance.
In-State travel.....	5,301.20	870.79	Operation of State owned automobile; gas and oil for boat inspectors.
Other expenditures.....	6,038.00	5,977.79	Boat rentals.
	35,517.00	17,873.38	
Balance available to expiration of grant Jan. 31, 1978.		17,643.62	
	35,517.00	35,517.00	

1974
**BOATING LAWS,
RULES AND REGULATIONS**



Richard M. Flynn
Commissioner of Safety

Alton H. Stone, Director
Division of Safety Services

COURTESY AND SAFETY
SUGGESTION

Always be sure that weather conditions are safe for the size of your boat and the waters to be navigated. Strong winds and small boats can be a serious combination.

Always maintain adequate freeboard. Do not overload your boat or use motors of excessive horsepower.

Always keep a safe distance from swimmers and other boats. Become acquainted with the action of your wake. It may cause considerable damage.

Always slow down when passing close to small boats, boats moored to docks or boats engaged in servicing and maintaining lights and buoys.

Always be sure that you have plenty of room before crossing the bow of another boat.

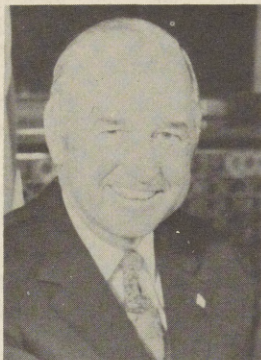
Always provide assistance to the occupants of boats in distress.

Always be sure that the person operating your boat is qualified and capable of handling all navigation problems.

Always let someone know where you are going.

Always check for fuel vapor odors before starting your engine.

Always treat others as you would like to be treated.



Boaters in New Hampshire

The Granite State is attracting an increasing number of boating enthusiasts each year. We have more than fifty thousand boats registered in our state now.

We invite all boat owners and operators to enjoy our fine water ways consisting of hundreds of miles of lakes, ponds and streams. The observation of good laws and regulations are necessary if we want to maintain boating safety and encourage the growth of this great sport.

The regulations presented here were compiled for your safety and well-being. We ask your cooperation by knowing and following these rules.

Safety is everybody's concern.

Meldrim Thomson, Jr.
Governor

KEEP BOATING SAFE

72-018 190



270.1 Declaration of Policy. In the interest of public safety and the protection of property, it shall be the duty of the director of safety services, department of safety, in all cases not provided for by the United States inspection laws and in all cases where inspections are not regularly made thereunder, to provide for the inspection on any public waters of the state of all commercial and private boats and the machinery, appliances and equipment thereof, such inspections to be performed by the department or its duly authorized representative. The department shall also supervise the safety of navigation and the establishment of aids to navigation, and all lights and buoys maintained at public expense on the inland waters of the state shall be under the jurisdiction of the department. The department shall make such alterations and improvements in existing lights and buoys as may be desirable, place additional lights and buoys where required to promote the safety of navigation, remove obstructions tending to impede navigation, and maintain all lights and buoys under its jurisdiction.

270:1-a Drownings and Boating Accidents Reports.

- I. Every person owning any commercial or private boat involved in an accident which results in personal injury or death or in which the combined or total damages resulting is one hundred dollars or more shall report said accident immediately to the director of safety services or his authorized representative and thereafter file a written report, with said director on forms furnished by him within ten days following said accident.
- II. All law enforcement agencies having knowledge of a drowning or boating accident shall have a duty to report any personal injury resulting from a boating accident, death or drowning including suspected drowning, and all boating accidents wherein there is resulting damage of one hundred dollars or more, immediately, to the director of safety services or his authorized representative.
- III. It shall be the responsibility of the director of safety services and his authorized representative to investigate any drowning or suspected drowning and all accidents in which there is serious injury, death or property damage of one hundred dollars or more. Said investigation shall be in addition to, and independent of, any investigation made by other agencies of government, except that said agencies may exchange data and cooperate with each other to avoid unnecessary duplication of efforts.
- IV. Jurisdiction for the purposes of this section shall extend to all waters under jurisdiction of the State of New Hampshire.

270:1-b Penalty. Any person who fails to file the reports required in RSA 270:1-a, I, shall be subject to the following penalty.

- I. If the offense occurs prior to November 1, 1973, he shall be fined not more than two hundred dollars, or imprisoned not more than one year, or both.

II. If the offense occurs on or after November 1, 1973, he shall be guilty of a misdemeanor.

270:2 Definitions and Classifications. The following words and phrases as used in this chapter shall have the following meanings, unless the context clearly requires otherwise:

* * * * *

IV. The term "commercial boat" shall mean any boat used as a common carrier of passengers or property operating on a regular schedule, any boat propelled by electric or mechanical power carrying passengers or property for hire, or any such boat or outboard motor when rented either separately or in connection with camps, cottages, or other real estate, and any such boat or outboard motor used by the proprietor of any school or camp in which minors are received for compensation, or by any officer, agent, or employee of such proprietor, for the transportation of minors.

V. The term "private boat" shall mean any boat, not a commercial boat, propelled by electric or mechanical power used exclusively for pleasure purposes by its owner, or others with his permission.

VI. The term "manufacturer or dealer" shall mean any person engaged in the business of manufacturing or dealing in boats or outboard motors.

270:3 Registration. No person shall operate upon any of the waters of the state, except tidal waters, a commercial or private boat unless said boat has been registered as provided herein. In case of boats propelled by outboard motors the motor itself shall be registered and not the boat. The presence of an outboard motor in condition for operation, attached to a hull afloat on the public waters of the state, shall be prima facie evidence that such boat or motor requires registration. No boat or outboard motor brought into the state for the purpose of taking part in a race, which has not been within the state in excess of ten days, shall be required to be registered as provided herein if the director of safety services, department of safety shall have issued a special authorization permitting it to be used for racing purposes. No such racing permit shall be for a period longer than ten days from the time said boat or motor is brought into the state.

270:4 Application. Every person owning any commercial or private boat shall annually, before operating the same, apply in writing to the director of the division of motor vehicles for registration thereof. Such application may be made to a duly authorized representative of said director or by mail addressed to the director of the division of motor vehicles, and shall be in such a form and contain such information as said director may require. In the case of private boats the proper fee shall accompany the application. In the case of commercial boats the proper fee shall be paid at the time of inspection. Such fees shall be paid before the issuance of certificate and number plate. *Said applica-*

tion shall also contain the following question and statement: "If a boat with temporary or permanent sleeping and toilet facilities (houseboat) and it will be moored at one location in New Hampshire, state where it will be moored? Otherwise, notification of places of mooring of houseboat to New Hampshire water supply and pollution control commission is required in accordance with the provisions of RSA 270-A."
1967, 412:2

270:4-a. Payment of Taxes. Every application for the registration of a boat or outboard motor shall contain the following question: "Have you paid all taxes assessed against boats owned by you, to the date of this application?" If the answer to the foregoing question is negative, the director shall not issue a registration until the applicant produces satisfactory evidence that such taxes have been paid. The director shall at any time revoke or suspend the registration of any boat or outboard motor when the collector of taxes notifies the director in writing that there remains unpaid any previous year's tax against a boat or boats assessed in the name of the registrant.
1961, 270:3

THE STATE OF NEW HAMPSHIRE

270:5 Fees. The director of the division of motor vehicles shall collect fees as follows:

- I. Commercial Boats. There shall be paid to the director of the division of motor vehicles for every such boat inspected as to which a certificate is given by said director, a fee based upon the following schedule: Boats used for passengers only, or for passengers and freight, permitted to carry a maximum of not exceeding ten persons, six dollars; boats permitted to carry a maximum of more than ten and not exceeding twenty-five persons, twelve dollars; boats permitted to carry a maximum of more than twenty-five and not exceeding one hundred and fifty persons, eighteen dollars; boats permitted to carry over one hundred and fifty persons, thirty dollars; boats used exclusively for towing freight, twelve dollars.
- II. Operators' Licenses. There shall be paid to the director for every general certificate of captain, master, pilot or engineer, two dollars; and for every limited certificate of captain, master, pilot or engineer, one dollar. A general certificate shall entitle the holder thereof to act in the capacity named on any boat of the class described in the certificate; a limited certificate shall entitle him to act in such capacity only on a particular boat named in the certificate. Only one certificate shall be required to entitle the holder thereof to act in any or all of the above capacities on any motor boat permitted to carry a maximum of twenty-five persons.
- III. Private Boats; Outboard Motors. There shall be paid to the director for each registration for privately

operated outboard motors a fee as follows: For outboard motors up to and including the manufacturer's rated capacity of five horsepower, three dollars; for motors with the manufacturer's rated capacity of five and one-tenth horsepower to thirteen and nine-tenths horsepower, four dollars; for motors with the manufacturer's rated capacity of fourteen horsepower and over, five dollars. In case of boats propelled by more than one outboard motor the fee shall be computed on the horsepower of each individual motor.

- IV. Private Boats; Inboard Type. There shall be paid to the director for each registration for privately operated inboard boats a fee as follows: For boats up to and including eighteen feet in length, five dollars; for boats in excess of eighteen feet in length and not exceeding twenty-six feet in length, eight dollars; for boats in excess of twenty-six feet in length, ten dollars. The length of boats shall be determined by the outside overall dimension measured along the center line of the craft from the bow to the stern.
- V. Dealer's Registration. There shall be paid to the director by a manufacturer or dealer for a registration certificate, as provided by section 21, five dollars. Those requiring more than one number plate shall pay to the director three dollars for each additional plate.
- VI. State Power Boats and Outboard Motors. Power boats and outboard motors owned and operated by the state shall be exempt from registration fees but shall be registered with a permanent plate and certificate in such form as the director of the division of motor vehicles may require.
1967, 360:1

- VII. Additional Registration Fees. There shall be paid to said director in addition to the fees required by paragraphs III and IV an additional fee of one dollar for each registration required by said paragraphs. The director of the division of motor vehicles shall pay over said additional fees to the state treasurer who shall keep said fees in a special fund to be expended by the water resources board for the repair and maintenance of all dams under the jurisdiction of said board; provided, however, that no such expenditure shall be made by the water resources board without prior specific legislative authorization. The water resources board shall present to each regular session of the legislature during the first week of the session proposals and requests for all work to be done during the ensuing biennium.
1969, 489:2

270:5-a. Issuing Agents. If any private boat registration is issued for the director of motor vehicles by one of his duly authorized agents not on the payroll of said division, such agent shall collect from the registrant a fee

of fifty cents in addition to the fees prescribed by paragraphs III and IV of section 5. Each application for private boat registration shall have printed thereon the words and figures, "agent's fee \$.50". Such agent shall retain said additional fee as compensation for his services in connection with the issuance of such registration. 1961, 164:1

270:6 Disposition of Revenues. All fees and fines collected hereunder, and all sums received from the state treasurer on account of the unrefunded motor vehicle road tolls, shall be made available to the department of safety for the promotion of the safety of navigation and the administration and enforcement of this chapter.

270:11 Regulations. Consistent with the policy of this chapter, the director of safety services may from time to time make rules and regulations relative to the equipment and operation of all boats, including rafts and floats, of whatever kind, type or character, operated or used on any public waters in this state, and the classification, examination and certification of captains, masters, engineers and pilots of all such boats. Such rules and regulations shall be binding on the persons owning, leasing, or operating such boats, rafts and floats. It shall be the duty of the director of safety services to enforce the provisions of this chapter and the rules and regulations issued thereunder, and in such enforcement the director of safety services and his duly authorized representatives shall have all the powers of a deputy sheriff in any county of the state.

270:12 Operating Restrictions. The director of the division of safety services may, after hearing, upon complaint or of his own motion, whenever it shall appear that the public interest requires, make such rules and regulations governing the maximum horsepower of boat engines and outboard motors or prescribe maximum speed limits for the operation of such boats or outboard motors applicable to or upon all or any portion of the public waters of this state. The director may, in like manner and after notice and hearing, prohibit the use of motor boats and outboard motors on bodies of public water having an area of thirty-five acres or less; provided, that said prohibition shall not be construed as affecting the bodies of water covered by RSA 486. Hearings under this section shall be held in the vicinity of the body of water under consideration. 1963, 119:1

270:13 Commercial Boats, Penalty. The director of the division of motor vehicles, after hearing, may revoke or suspend the certificate of any captain, master, pilot or engineer of any commercial boat for violation of any section of this chapter or the rules and regulations prescribed thereunder. Any person who shall use any commercial boat or commercial outboard motor on any public waters in this state without a certificate of inspection, or shall act as captain, master, pilot, engineer or operator on any such boat or launch without having

been examined and certified in that capacity, or shall so act when his certificate has been revoked or suspended, or who shall violate any rules or regulation prescribed by the department of safety with reference to the inspection, equipment, or operation of such boats or launches, shall be fined not more than five hundred dollars, or imprisoned not more than one year, or both.

270:14 Expiration of Licenses, Etc. All licenses and certificates issued hereunder shall expire with December thirty-first next following the date of issuance.

270:15 Plates, Certificates. Each boat registered by the director of the division of motor vehicles shall be given a distinguishing number. A plate bearing the number shall be furnished the boat owner and be attached to the boat in such a manner as the director shall prescribe. The director shall issue to the boat owner a certificate that the boat has been legally registered. Such certificate shall at all times be kept upon said boat while in operation, and upon request shall be open to examination by any duly authorized representative of the department of safety.

270:15-a Initial Number Plates. The director of the division of motor vehicles of the department of safety is hereby authorized to design and to issue, under such regulations as he shall deem appropriate, initial number plates to be used on boats in lieu of other number plates. Such number plates shall be of such design and shall bear such letter or letters and numbers as the director shall prescribe, but there shall be no duplication of identification. The number plates herein provided for shall be issued only upon application therefor, and upon payment of a service fee of five dollars, said service fee to be in addition to the regular boat registration fee as prescribed by this chapter for the particular boat. Upon issuance of the certificate of registration as provided in section 15 such boat owner shall comply with all other provisions of section 15 as to such certificate. 1963, 171:1

270:15-b Disposition of Fees. The net proceeds collected from the service fees for initial number plates as provided in section 15-a shall be held in the state treasury in a separate account to be known as the Young Boaters Training Fund. The director of safety services is authorized to establish a training program for young persons operating boats and to expend for such program funds from the separate fund established hereunder. Provided, however, that no funds shall be so expended until after March 1, 1964. 1963, 171:1

270:16 Revocation of Registration. The director of the division of motor vehicles, after hearing, may revoke the registration of any boat or outboard motor issued pursuant to the provisions of this chapter for violation of any section hereof or the rules and regulations hereunder prescribed by the department of safety, or

whenever it shall appear upon a complaint of the selectmen or any tax collector of any town that the owner has failed, after demand, to pay any property tax upon the same which shall be due to the town.

270:16-a. Suspension of Registration. The director of the division of motor vehicles may order the suspension of any boat registration in his discretion, and without a hearing, and may order the registration to be delivered to his office, whenever he has just cause to believe that the holder thereof is physically or mentally an improper or incompetent person to operate power boats and outboard motors, or is operating improperly or so as to endanger the public or pending the investigation of any accident in which a boat or outboard motor is involved. Upon request of any person whose registration is suspended pursuant to this section the director shall hold a hearing thereon within thirty days of such request.

1959, 120:1

SUSPENSION AND REVOCATION OF OPERATION

270:16-b Suspension. The director of the division of safety services may order the suspension of the privilege to operate any boat or outboard motor in his sole discretion and without a hearing, whenever he has just cause to believe that the operator of any boat or outboard motor is an improper or incompetent person to operate powerboats and outboard motors, or is operating or permitting the operation of the boat or outboard motor improperly or in a manner which endangers the public, or pending the investigation of any accident in which a boat or outboard motor, or any other vessel is involved. Upon request of any person whose right to operate is suspended, pursuant to this section, the director shall hold a hearing within thirty days of such request.

270:16-c Revocation. The director of the division of safety services, after hearing, may revoke the privilege of operating a boat or outboard motor for violation of any section of this chapter or the rules and regulations issued by the director of the division of safety services, of any person whom the hearing officers have decided is an improper person to operate a boat. Such revocation shall be in effect for the period of time determined by the hearing officers.

270:17 Transfer of Registration. Upon the transfer of ownership of any boat or outboard motor, its registration shall expire and the person in whose name such boat or outboard motor is registered shall return the certificate of registration forthwith to the director of motor vehicles with a written notice containing the date of such transfer of ownership and the name and address of the new owner, or, in case of loss by theft, accident or fire, a sworn statement setting forth the circumstances attending such loss. A person who so transfers or loses a registered boat or outboard motor, upon filing a new application, may have registered in his name

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another boat or outboard motor for the remainder of the calendar year. A fee of one dollar shall be paid to the director for such transfer. The director, at his discretion, may assign to the boat or outboard motor of any person who surrenders his registration certificate, as herein provided, and who desires to register another boat or outboard motor, the registration number in the surrendered certificate, a new number, or the number given in the statement as herein provided for in the case of loss.

1955, 159:1

270:17-a Operation without Registration; Reciprocity. A power boat owned by a non-resident and duly registered for the current year in a contiguous state of which the owner is resident may be operated upon those public waters of this state which are contiguous to or intersected by the boundary line of this state with such other state and are not under the jurisdiction of the United States Coast Guard, without registration under this chapter to the extent as to period of operation and otherwise that said contiguous state of registration grants similar privileges for the operation of such power boats owned by residents of this state and registered under its laws. The director of the division of motor vehicles of the department of safety for the purpose of this section shall determine the nature and extent of the privileges for the operation of power boats granted by such other states to residents of this state and his determination shall be final.

1963, 18:1

270:18 Penalty. If any person shall operate any boat required to be registered hereunder without registration, or shall violate any provision of this chapter, or any rule or regulation prescribed by the department of safety relating to the equipment or operation of such boats, or shall refuse or fail when requested to exhibit to any duly authorized representative of the department the certificate of registration of such boat, he, and the owner of said boat if the same is operated with his permission or assent, shall be fined not more than one hundred dollars, or imprisoned not more than one year or both.

1955, 159:2

270:19 Agent's Liability. If any such boat is owned by a corporation, sentence may also be imposed upon any officer or agent of said corporation having the custody and control of said boat and committing, or permitting or assenting to the violation of section 18 hereof.

270:20 Dealer's Registration. A manufacturer or dealer of boats and outboard motors may make application to the director of the division of motor vehicles, upon blanks furnished by him for that purpose, for a general distinguishing number plate for his boats and motors.

270:21 Dealer's Registration Certificate and Number Plates. The director of the division of motor vehicles may, if he is satisfied of the facts stated in the

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application, issue to the applicant for a dealer's registration a certificate containing the name, residence, and address of such applicant and the general distinguishing number assigned together with such other provisions as the director may determine. All such boats and outboard motors owned or kept for sale by such manufacturer or dealer, may, while so owned or kept, be regarded as registered under such distinguishing number, provided the number plate issued by the director be attached thereto. The director shall, at the time of issuing a certificate to a manufacturer or dealer, furnish him with a number plate of such design and color as he may determine, and such further number plates and temporary certificates as he may require.

270:22 Use of Dealer's Number Plates. A manufacturer or dealer shall not loan number plates which have been assigned to him hereunder to a sub-agent or to any other person. Such plates may be used on boats and motors when used in connection with said manufacturer's or dealer's business or for pleasure purposes, but in no case shall they be used on boats carrying persons or property for hire or compensation.

270:23 Temporary Registration. A person upon purchasing a private boat or outboard motor from a duly registered manufacturer or dealer shall immediately apply for registration of such boat or motor and pay the required registration fee to said manufacturer or dealer. Upon receipt of such application and fee the dealer or manufacturer may issue to the purchaser a receipt for such payment and temporary certificate or plate. If a plate is issued it shall be attached to said boat or motor. Said dealer or manufacturer shall immediately forward the application and fee to the director of the division of motor vehicles by mail or otherwise and furnish such further information as the director may require with respect thereto. The temporary certificate or plate shall be evidence that application has been made for registration and such boat or motor may be operated for a period of not more than four consecutive days thereafter. Permanent number plates when received shall be attached immediately by the purchaser.

270:24 Suspension of Dealer's Registration. The director of the division of motor vehicles shall have authority to suspend or revoke the registration of any manufacturer or dealer who violates any of the provisions of section 21 to 23. Any manufacturer or dealer who violates any of said provisions shall be fined not more than one hundred dollars or imprisoned not more than one year, or both.

270:25 Muffling Devices. It shall be unlawful to use within the jurisdiction of this state a boat propelled, in whole or in part, by gas, gasoline, or naphtha, unless the same is provided with an under-water exhaust or other muffling device so constructed and used as to muffle the noise of the explosion. The propeller or other means of propulsion of all said boats shall be submerged under the

water level to muffle the sound of said propeller or other means of propulsion. Boats operating in a race under the auspices of a recognized boat club shall not be subject to this restriction, provided such club shall have obtained special license to hold such race from the director of safety services.
1971, 239:1

270:26 Injuring Buoys, Obstructions. If any person shall wilfully remove, destroy, or injure any buoy, beacon, floating guide or other light placed in any of the public waters of the state for the purpose of guiding and protecting navigation and boating thereon, or shall moor or make fast thereto any vessel, boat, scow, or raft, or shall wilfully place an obstruction dangerous to navigation in any of the navigable waters of the state without reasonable precaution to protect the public from such obstructions, he shall be fined not more than one hundred dollars, or imprisoned not more than one year, or both.

INTERFERENCE WITH VESSELS

270:26-a: Interference with a Vessel. No person shall, without the consent of the owner of the vessel, wilfully and maliciously cut away or let loose any vessel which is fastened to any mooring place or lying at anchor. Whoever violates the provisions of this section shall be guilty of a violation.

270:27 Boat Racing. No commercial boat, private boat or sail boat shall race with another such boat over a predetermined course on any of the public waters of the state unless the course is laid out and marked in a manner satisfactory to the director of safety services and said race is held under a permit issued by said director to a recognized sponsoring organization stating the date and place of the race.

270:28 Clearing Course. While motor boats are racing on a course as described in section 27, no aircraft in landing or taking off from the water and no boat however propelled shall traverse or cross said course within one-half mile of an approaching boat, except in an emergency or when engaged in the common carriage of passengers or freight operating on a regular schedule.

270:29 Operation Prohibited. It shall be unlawful to operate a boat or canoe propelled by mechanical power on any stream or body of water within the boundaries of that part of the White Mountain National Forest that is situated within the State of New Hampshire. The provisions of this section shall not apply to the following bodies of water: Stinson Lake in Rumney, the North and South Percy Ponds in Stark and Kimball Pond in Chatham, nor to persons engaged in emergency rescue operations or public service. Whoever violates the provisions of this section shall be fined not more than one hundred dollars.

270:30 Persons Twelve Years of Age or Under. No person twelve years of age or under shall operate upon the

public waters of the state a motor boat or outboard motor having power in excess of twenty-five horse power unless he is accompanied by an adult; and such adult shall be liable for personal injury or property damage which may result from such operation.
1963, 138:1

270:31 Scuba Diving. Any person engaged in scuba diving on any of the inland waters of the state shall have a diver's flag displayed indicating that scuba diving activities are in progress, and said flag must extend at least three feet above the surface of the water.

270:32 Penalty. Any person violating the provisions of RSA 270:31 shall be subject to the following penalties.

- I. If the offense occurs prior to November 1, 1973, he shall be fined not more than twenty-five dollars for each offense.
- II. If the offense occurs on or after November 1, 1973, he shall be guilty of a violation for each offense.
- III. The director of safety services may prohibit further scuba activity in addition to the penalties prescribed in either I or II, until the provisions of RSA 270:31 have been complied with.

270:32-a Any Type of Watercraft. An operator of any unofficial or unauthorized watercraft of any type approaching within seventy-five feet of a diver's flag being displayed in accordance with RSA 270:31, shall be subject to the penalties provided in RSA 270:32, I and II. Official watercraft shall use precaution when official business requires them to be within the above-cited range.

USE OF HOUSEBOATS

270-A:1 Definitions. The following words and phrases as used in this chapter shall have the following meanings, unless the context clearly requires otherwise:

- I. "Person" means any individual, firm, co-partnership, company, association or joint-stock association, including any trustee, administrator, executor, receiver, assignee or other personal representative thereof.
- II. "Houseboat" means any ship, boat, raft, float, catamaran or marine craft of any description upon or within which are located sleeping and toilet facilities, regardless of whether such facilities are of a permanent or temporary nature.
- III. "Overnight period" means the period of time between the termination of daylight in the evening to the earliest dawn in the next morning.
- IV. "Mooring" means beaching, grounding, or tying of a houseboat to the shore of any of the inland surface waters of the state, and the anchoring of a houseboat on any of the inland surface waters of the state.

270-A:2 Where Overnight Mooring Permitted. A houseboat may be beached or grounded, or tied to the shore of any of the inland surface waters of the state for an overnight period, or any part of an overnight period,

only when on or at a location owned, leased, or otherwise under the control of the owner or operator of the houseboat, or by permission of the owner, lessee, or person otherwise in control of such location. An occupied houseboat may be anchored on the inland surface waters of the state for an overnight period, or any part of an overnight period, only in an area reasonably adjacent to a location owned, leased, or otherwise under the control of the owner or operator of the houseboat or by permission of the owner, lessee, or person otherwise in control of such location.

270-A:3 Where Overnight Mooring Prohibited. No houseboat shall be beached or grounded, or tied to the shore of any of the inland surface waters of the state for an overnight period or any part of an overnight period, except as permitted in section 2 or in cases of emergency. No houseboat shall be anchored on any of the inland surface waters of the state for an overnight period or any part of an overnight period except as permitted in section 2 or in cases of emergency.

270-A:4 Notification of Mooring of Houseboats Required. The owner, lessee, or person otherwise in control of a location at or adjacent to which one or more houseboats are anchored, beached, grounded or tied to the shore for an overnight period, or for any part of an overnight period, shall promptly thereafter give notice of this fact, in writing, to the New Hampshire water supply and pollution control commission, stating the number of houseboats moored at such location and the dates of such mooring. Any person who owns or controls a location at which spaces are rented or leased to the general public for the purpose of mooring houseboats at such location, shall keep a log of all houseboats moored at such locations, the name of the owner or other person in control of such houseboats, the registration number of the houseboat, and the dates of such mooring, which log shall be available for inspection at all reasonable times by any agent of the New Hampshire water supply and pollution control commission. When a houseboat is to be moored at the same location for an extended period of time, one written notification of such fact stating the period of time the houseboat will be so moored to the New Hampshire water supply and pollution control commission shall be sufficient to satisfy the requirements of this section. Such written notification shall not be required if the owner of the houseboat furnishes such information on his application for registration of the houseboat to the director of the division of motor vehicles in accordance with the provisions of RSA 270:4.

270-A:5 Penalty for Overnight Mooring at a Prohibited Location. If any person shall violate any provision of this chapter relative to mooring a houseboat overnight in a prohibited location, upon conviction thereof, he shall be fined not more than fifty dollars for each such violation. Each night of mooring a houseboat in a

prohibited location shall be considered a separate violation.

270-A:6 Penalty for Failure to Give Required Notification of Mooring. If any person shall violate any provision of this chapter relative to giving the required notification of mooring to the New Hampshire water supply and pollution control commission, upon conviction thereof, he shall be fined not more than fifty dollars for each such violation.

270-A:7 Additional Penalty. In addition to the penalties provided in section 5 and 6, the court may revoke the New Hampshire registration certificate and the right to obtain such a certificate for any houseboat or motor used for propelling such houseboat in violation of any of the provisions of this chapter, for a period not to exceed one year from the date of conviction.
1967, 412:1

ABANDONED BOATS

270-B:1 Prohibition. No person shall abandon any boat at any time on the waters of the state.

270-B:2 Abandonment. Any boat found unattended in a sunken, beached, or drifting condition shall be deemed abandoned by the owner. In the interest of the public safety such boat may be removed and impounded for safekeeping and disposal in accordance with the provisions of this chapter.

270-B:3 Jurisdiction. Any such abandoned boat may be impounded by the director of safety services or his designated representatives.

270-B:4 Redemption. The owner of such impounded boat, if he be known or can be found, shall be notified and the owner shall be permitted to redeem such boat by payment of a storage fee not to exceed one dollar per day plus the actual cost incurred in the removal of such boat.

270-B:5 Boat to be Held. When the owner of such boat cannot be found the impounded boat shall be held at the place of safekeeping for a period of time not less than ninety days nor longer than six months.

270-B:6 Disposal. Any boat unclaimed by the owner at the expiration of the time set forth in RSA 270-B:5 shall be disposed of by destroying such boat or by offering such boat for sale at public auction.

270-B:7 Revenue. Any money received by reason of sale of such abandoned boat at public auction shall be deposited in the state general fund.
1971, 219:1

MARINE TOILETS AND DISPOSAL OF SEWAGE FROM BOATS

149-A:1 Definitions. As used herein the following terms, unless the context clearly indicates otherwise, shall have the following meanings:

I. "Sewage" means all human body wastes.

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II. "Boats" means any vessel or water craft whether moved by oars, paddles, sails or other power mechanism, inboard or outboard, or any other vessel or structure floating upon the water whether or not capable of self-locomotion, including but not limited to house boats, barges and similar floating objects.

III. "Marine toilet" means any toilet on or within any boat as that term is defined herein.

"Waters of this state" means waters classified, or unclassified, as defined in RSA 149;
1957, 190.

149-A:2 Marine Toilets, Restrictions On. After the effective date hereof no marine toilet on any boat operated upon waters of the state shall be so constructed and operated as to discharge any sewage into said waters either directly or indirectly, nor shall any sewage or container of sewage be placed, left, discharged or caused to be placed, left or discharged in or near any waters of the state by any person at any time whether or not the owner, operator, guest or occupant of a boat; provided, however, that nothing herein shall prohibit such discharge to a municipal sewerage system or to any adequate sewage disposal system on shore.
1957, 190:1, 1967, 146:1.

149-A:4 Penalty. Whoever violates any of the provisions hereof or of regulations of the water supply and pollution control commission promulgated by authority hereof shall be fined not more than five hundred dollars or imprisoned for not more than one year or both, and such fine, if imposed, shall constitute a lien against the boat on which the offense was committed whether or not the defendant is also the registered owner or operator of said boat unless said boat was used without permission of the owner.
1957, 190:1, 1967, 147:14.

149-A:5 Enforcement. All boats located upon waters of this state shall be subject to inspection by the water supply and pollution control commission or any lawfully designated agent or inspector thereof at any time for the purpose of determining whether such boat is equipped in compliance herewith. The members of the water supply and pollution control commission, its agents and inspectors, for these purposes shall have all the powers of a deputy sheriff throughout the state.
1957, 190:1, 1967, 147:14.

149-A:6 Required Registrations. No boat shall be operated upon waters of this state after the effective date hereof having within or on it a marine toilet without a certificate of registration from the public utilities commission as required by RSA 270.
1957, 190:1

149-A:7 Suspension of Registration. If, upon said inspection it shall appear that any marine toilet within or on a boat in operation on waters of the state is so constructed as to permit the discharge of any sewage to

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a surface water of the state contrary to the provisions of this chapter, the member, agent or inspector is directed not later than forty-eight hours thereafter to require from the owner, operator, or any person on board said boat, production and surrender of its certificate and plate of registration. The owner, operator, or any person on board, shall have forty-eight hours from said production and surrender of certificate and plate of registration within which to remedy the defect. If, within said period said defect is remedied, the certificate and registration shall be returned. If, at the expiration of said forty-eight hours, the defect is not remedied, said member, agent, or inspector shall then endorse in ink upon said certificate or registration a brief statement of the nature of the violation and shall forward it forthwith by mail or in person to the department of safety, division of motor vehicles, where it shall be held by said division until receipt of written authority from the water pollution commission for its return, which authority shall include a statement that the specified violation has been remedied in accordance with the provisions hereof and regulations of the water pollution commission promulgated hereunder.

1957, 190

149-A:11 Subsequent Registrations. Applications for original or renewal of certificates of registration from the department of safety, division of motor vehicles, subsequent to the effective date hereof, shall contain a statement subject to the penalties of perjury that the boat described herein or the boat on which the outboard is to be used is equipped in compliance herewith.

1957, 190

LITTER CONTROL LAW

163-B:1 Declaration of Intent. It is the intention of the legislature by this chapter to provide for uniform prohibition throughout the state of any and all littering on public or private property, and to curb thereby the desecration of the beauty of the state and harm to the health, welfare and safety of its citizens caused by individuals who litter.

163-B:2 Definitions. As used in this chapter, unless the context clearly requires otherwise, the following words or phrases shall have the following meanings:

- I. The word "litter" means all rubbish, refuse, garbage, trash, debris, dead animals or other discarded materials of every kind and description.

163-B:3 Unlawful Activities. It shall be unlawful for any person or persons to dump, deposit, throw or leave, or to cause or permit the dumping, depositing, placing, throwing or leaving of litter on any public or private property in this state, or in or on ice or in any waters in this state, unless:

- I. Such property is designated by the state or by any of its agencies or political subdivisions for the disposal of such litter, and such person authorized by the proper public authority to use such property;
- II. Such litter is placed into a litter receptacle or container installed on such property.
- III. Such person is the owner or tenant in lawful possession of such property, or has first obtained consent of the owner or tenant in lawful possession, or unless the act is done under the personal direction of said owner or tenant, all in a manner consistent with the public welfare.

163-B:4 Penalties.

- I. Any person violating the provisions of RSA 163-B:3 is guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of fifty dollars or imprisonment for three days, or both such fine and imprisonment, or, in lieu thereof, in the sound discretion of any court in which conviction is obtained, any such person may be directed by the judge of such court to pick up and remove from any public street or highway or public or private right-of-way, or public beach or public park, or, with prior permission of the legal owner or tenant in lawful possession of such property, any private property upon which it has been established by competent evidence that he has deposited litter, any and all litter deposited thereon by anyone prior to the date of execution of sentence.
- II. The court is hereby directed to publish the names of persons convicted of violating the provisions of RSA 163-B:3.

163-B:5 Prima Facie Evidence. Evidence that litter is thrown, deposited, dropped or dumped from any motor vehicle, boat, airplane or other conveyance in violation of RSA 163-B:3, shall be prima facie evidence that the operator of said conveyance shall have violated this chapter and the license to operate such a conveyance issued to any person convicted hereunder may be suspended for a period not to exceed seven days together with, or in lieu of, penalties provided in RSA 163-B:4.

163-B:6 Enforcement. All law enforcement agencies and officers and officials of said agencies of this state or any political subdivision thereof are hereby authorized, empowered, and directed to enforce compliance with this chapter.

1971, 144:1

642:2 Resisting Arrest or Detention. A person is guilty of a misdemeanor when he purposely interferes with a person recognized to be a law enforcement official seeking to effect an arrest or detention of himself or another regardless of whether there is a legal basis for the arrest. source: 1971, 518:1, eff. Nov. 1, 1973.

ASSAULT AND RELATED OFFENSES

631:1 Assault.

- I. A person is guilty of assault if he
 - (a) attempts to cause or purposely or recklessly causes bodily injury or physical contact to another; or
 - (b) negligently causes bodily injury to another with a deadly weapon.
- II. Assault is a misdemeanor unless committed in a fight entered into by mutual consent, in which case it is a violation.

631:2 Aggravated Assault. A person is guilty of a class B felony if he attempts to cause or purposely, knowingly, or recklessly causes

- I. serious bodily injury to another; or
- II. bodily injury to another by means of a deadly weapon; or
- III. bodily injury to another under circumstances manifesting extreme indifference to the value of human life.

631:3 Reckless Conduct. A person is guilty of a misdemeanor if he recklessly engages in conduct which places or may place another in danger of serious bodily injury.

631:4 Criminal Threatening. A person is guilty of an offense when,

- I. By physical conduct, he purposely places or attempts to place another in fear of imminent bodily injury or physical contact; or
- II. He threatens to commit any crime against the person of another with a purpose to terrorize any person; or
- III. He threatens to commit any crime of violence with a purpose to cause evacuation of a building, place of assembly, facility of public transportation or otherwise to cause serious public inconvenience, or in reckless disregard of causing such fear, terror or inconvenience.

IV. The offense is a misdemeanor, except a violation of paragraph III, which is a class B felony.

631:5 Operating Boats Under Influence of Liquor or Drugs.

- I. A person is guilty of a misdemeanor if he operates a boat while under the influence of intoxicating liquor or a controlled drug.
- II. The meaning of "boat" as used in this section includes any craft that is propelled on the water by motor, sail, or any mechanical means.
- III. Any person convicted of a violation of
 - (a) this section; or
 - (b) RSA 630:2 or 3, or RSA 631:1, 2 or 3 wherein the offense was committed by means of his operation of a boat:

shall not operate a boat on the waters of this state for a period of one year from the date of his conviction, whether or not such conviction is appealed. Any person operating a boat during such a period is guilty of a misdemeanor.

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630:2 Manslaughter. A person is guilty of a class A felony when he causes the death of another

- I. Recklessly; or
- II. under the influence of extreme mental or emotional disturbance but which would otherwise constitute murder.

1971, 518:1, eff. Nov. 1, 1973.

630:3 Negligent Homicide. A person is guilty of a class B felony when he causes the death of another:

- I. Negligently; or
- II. In consequence of his being under the influence of intoxicating liquor or controlled drug while operating a propelled vehicle, as defined in RSA 637:9, II or a boat, as defined in RSA 631:5, II.

1971, 518:1, eff. Nov. 1, 1973.

631:6 Failure to Report Injuries. A person is guilty of a misdemeanor if, having knowingly treated or assisted another for a gunshot wound or for any other injury he believes to have been caused by a criminal act, he fails immediately to notify a law enforcement official of all the information he possesses concerning the injury.

1971, 631 (effective November 1, 1973)

Rifles and Shotguns in Boats

207:7 Hunting from Motor Vehicle, Snow Traveling Vehicle, Boat, or Aircraft.

- I. No person shall take or attempt to take wild birds or wild animals from a motor vehicle, snow traveling vehicle, boat, aircraft or other craft propelled by mechanical power.
- II. No person shall have or carry, in or on, such motor vehicle, snow traveling vehicle or aircraft, whether moving or stationary, a loaded rifle or loaded shotgun or a rifle or shotgun with a cartridge in the magazine or clip attached to the gun.
- III. No person shall have in or on a boat or other craft while being propelled by mechanical power, or in a boat or other craft being towed by a boat or other craft propelled by mechanical power, a loaded rifle or loaded shotgun or a rifle or shotgun with a cartridge in the magazine or clip attached to the gun.
- IV. The provisions of this section shall not apply to law enforcement officers carrying guns in the line of duty.

1971, 308:1

RSA 572

572:45 Taking Boat, Vehicle, or Draught Animal Without Owner's Consent. If any person shall wilfully, mischievously and without claim of right take or use any boat or vehicle, or shall take, drive, ride, or use any horse or other driving or draught animal, without the consent of the owner or person having control thereof, but not with the intent to steal the same, he shall be fined not more than one hundred dollars, or imprisoned not more than one year, or both.

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JUVENILE COURTS DELINQUENT CHILDREN

Revised Statutes Annotated Chapter 169

169:30 Limitations of Authority Conferred. This chapter shall not be construed:

- I. As authorizing any public officer, agent or representative in carrying out any of the provisions hereof to take charge of any child over the objections of either of the parents of such child or of the person standing *in loco parentis* to such child, except pursuant to a court order;
- II. As applying in the case of persons sixteen years of age or over who are charged with the violation of a motor vehicle law, an aeronautics law, a law relating to navigation of boats or a game law that pertains to hunting any wild bird or wild animal of any kind.

1961, 74:1

Altering the Terrain

149:8-a (New) **Dredging.** Any person proposing to dredge, excavate, place fill, mine, transport forest products or undertake construction in or on the border of the surface waters of the state, and any person proposing to significantly alter the characteristic of the terrain, in such a manner as to impede the natural runoff or create an unnatural runoff, shall be directly responsible for the submission to the commission of detailed plans concerning such proposal and any additional relevant information requested by the commission, at least thirty days prior to undertaking any such activity. The operations shall not be undertaken unless and until the applicant receives written permission from the commission. The commission shall have full authority to establish the terms and conditions under which any permit issued may be exercised, giving due consideration to the circumstances involved and the purposes of this chapter, and to make such rules and regulations as are reasonably related to the efficient administration of this section and the purposes of this chapter. Nothing contained herein shall be construed to modify or limit the duties and authority conferred upon the water resources board under RSA 482 and RSA 483-A.

1971, 521:1

POWER BOATS RESTRICTED

No person shall operate a power boat or outboard motor on Lucas Pond in the town of Northwood, (Chapter 486:4 RSA), Lake Whittemore in the town of Bennington, (Chapter 486:1 RSA), Abbott Forest Pond in the town of Stoddard, (1961, 171:1), Tolman Pond in the town of Nelson, (1967, 223:1), and Big and Little Cherry Ponds in Jefferson, (1969, 58:1).

No person shall at any time place in or upon, or use, or operate upon, Squam Lake or Conway Lake or Silver Lake in Madison, any houseboat, (RSA 486:3).

No person shall operate motor boats or outboard motors on Otter Lake in the town of Greenfield at greater than trolling speed, except in case of emergency or by special approval of the selectmen (Chapter 486:6 RSA).

1959, 193:1

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No person shall operate motor boats and outboard motors on the following bodies of water, all in the town of Pittsburg; Big Brook Bog, Coon Brook Bog, Scotts Bog, Moose Pond, Middle Pond, Boundary Pond and Moose Falls Flowage. (Chapter 270:12 RSA).

No person shall operate power boats on Rock Pond, Windham; Hopkins Pond, Andover; Whites and Butterfield Ponds, Wilnot; Center Pond, Nelson; Saltmarsh Pond, Gilford; Hunkins Pond, Sanbornton; Upper Hall's Pond, Sandwich; Ferrin Pond, Wear; Little Pond, Sandwich; Page Pond, Meredith; Cawley Pond, Sanbornton; Gilman, Knight's and Bear Ponds, Alton; Ledge Pond, Madison; New Pond, Canterbury.

No person shall operate a power boat or outboard motor of more than seven and one-half horsepower on Lee's Pond in the town of Moultonborough.

RSA 486:7

No person shall use or operate any motorboat or other boat equipped with a motor of greater than six horsepower, or at greater than trolling speed, upon the waters of Willard Pond in the town of Antrim. Whoever violates any of the provisions of this section shall be fined not more than fifty dollars.

1969, 118:1

The provisions of RSA 486 shall not apply to the use of outboard motors or power boats by state employees when essential to the discharge of their official duties in an emergency or other extraordinary situation. RSA 486:5 as inserted by 1959, 53:1

No person shall use or operate any motorboat or any boat equipped with an outboard motor upon the waters of Chocorua Lake in Tamworth. Whoever violates the provisions of this section shall be fined not more than fifty dollars.

1971, 16:1

No person shall use or operate any motorboat or any boat equipped with an outboard motor upon the waters of Mirror Lake in the Town of Woodstock. Whoever violates the provisions of this section shall be fined not more than fifty dollars.

1971, 117:1

No person shall use or operate any motorboat or any boat equipped with an outboard motor upon the waters of Jericho Pond in Berlin. Whoever violates the provisions of this section shall be fined not more than fifty dollars.

1971, 304:1

No person shall operate any boat equipped with a petroleum powered motor upon the waters of Smith Meeting House Pond and Rollins Pond in the Town of Gilmanton. Whoever violates any of the provisions of this section shall be fined not more than fifty dollars.

1971, 306:1

No person shall use or operate any motorboat or other boat equipped with an outboard motor on the waters of Berry Pond in the Town of Moultonborough. Whoever violates the provisions of this section shall be fined not more than fifty dollars.

1971, 564:1

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I-1
ORDER NO. 421
STATE OF NEW HAMPSHIRE
DEPARTMENT OF SAFETY
DIVISION OF SAFETY SERVICES

WHEREAS, Chapter 106-A (Supp) Revised Statutes Annotated as inserted by Laws of 1961, Chapter 166 empowers the Director of Safety Services to establish rules and regulations relative to navigation, equipment and operation of boats; and

WHEREAS, the Director of Safety Services, upon consideration, has established said rules and regulations; it is

ORDERED, that rules and regulations are hereby prescribed for the operation, equipment and navigation of all boats operated on any public waters in the State of New Hampshire, not subject to the authority in this respect of United States Inspection Laws, or where inspections under such laws are not regularly made; and it is

FURTHER ORDERED, that said rules and regulations shall become effective January 1, 1974, thereby revoking Order No. 420 of this Division, dated December 30, 1972.

By order of the New Hampshire Department of Safety, Division of Safety Services this first day of January, 1974.

Alton H. Stone, Director

RULES AND REGULATIONS

Boats subject to inspection and regulations are boats propelled by electric, naphtha, gasoline, steam or other mechanical power, and any boats however propelled or boats operated as ferries for the transportation of passengers or freight or both. As indicated herein, certain rules apply to boats propelled other than by mechanical power. These rules apply alike to private boats and boats operated as common carriers, or kept for hire.

No person shall operate or give permission for the operation of any boat which is not equipped as required hereunder by this section.

SPEED RESTRICTIONS

1. **Black Lake:** Motor boats and outboard motors shall not be operated at a speed exceeding ten miles per hour, provided, however, that this restriction shall not apply between the hours of 12:30 P.M. and 3:30 P.M. daily on that portion of Back Lake in the town of Pittsburg, easterly of a line running from Washburn's Camp on the south to the New Hampshire Guides Lot on the north.
2. **Bearcamp Pond:** Motor boats and outboard motors shall not be operated at a speed exceeding ten miles per hour upon the waters of Bearcamp Pond in the Town of Sandwich.
3. **Beaver Lake:** Motor boats and outboard motors shall not be operated at a speed exceeding ten miles per hour on Beaver Lake in Derry, provided, however, that this

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restriction shall not apply between the hours of 1:00 P.M. and 7:00 P.M. Mondays through Fridays inclusive, holidays excepted, when power boats may tow water skiers or surfboard riders at speeds not exceeding thirty miles per hour, provided that such operations are conducted wholly beyond a point one hundred fifty feet from any portion of the shore of said lake.

4. **Big Pea Porridge Pond:** Motorboats and outboard motors shall not be operated at a speed exceeding ten miles per hour on Big Pea Porridge Pond in the Town of Madison, provided, however, that this restriction shall not apply between the hours of 12:30 P.M. and 3:30 P.M. daily.
5. **Bow Lake:** Boats shall not be operated at a rate of speed in excess of six miles per hour on that section of Bow Lake in Strafford between the dam at the outlet of said lake and the easterly point of the first island west thereof, and also on the northerly course between the easterly point of the island referred to and the red and black buoys marking the northwest entrance to the channel.
6. **Cass Pond:** Motorboats and outboard motors shall not be operated at a rate of speed exceeding ten miles per hour upon the waters of Cass Pond in the Town of Richmond.
7. **Cobbetts Pond:** Motor boats and outboard motors shall not be operated at a speed exceeding ten miles per hour when navigating that portion of Cobbetts Pond known as The Narrows.
8. **Conner Pond:** Motorboats and outboard motors shall not be operated at a speed exceeding ten miles per hour upon the waters of Conner Pond in the Town of Ossipee.
9. **Crystal Lake:** Motorboats and outboard motors shall not be operated at a speed exceeding ten miles per hour on Crystal Lake in the Town of Eaton, provided, however, that this restriction shall not apply between the hours of 10:00 A.M. and 12:00 Noon and 2:00 P.M. and 5:00 P.M. Monday through Friday and on Saturday between 10:00 A.M. and 12:00 Noon.
10. **Diamond Lake (Tom's Pond):** Motor boats and outboard motors shall not be operated at a rate of speed exceeding ten miles per hour upon the waters of Diamond Lake, also known as Tom's Pond, in the Town of Warner.
11. **Dublin Lake:** Motor boats and outboard motors shall not be operated at a speed exceeding ten miles per hour upon the waters of Dublin Lake in the Town of Dublin, provided, however, that this restriction shall not apply between the hours of 4:00 P.M. and one half hour after sunset daily.
12. **Duncan Lake:** Motor boats and outboard motors shall not be operated at a rate of speed exceeding ten miles per hour upon the waters of Duncan Lake in the Town of Ossipee provided, however, that this restriction

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shall not apply between the hours of 12:00 noon and 4:00 P.M. daily.

13. **Eastman Pond:** Motor boats and outboard motors shall not be operated at a rate of speed exceeding ten miles per hour upon the waters of Eastman Pond in the town of Grantham.
14. **Frost Pond:** Motor boats and outboard motors shall not be operated at a rate of speed exceeding ten miles per hour upon the waters of Frost Pond in the towns of Jaffrey and Dublin.
15. **Gould Pond (Hillsboro):** Motor boats and outboard motors shall not be operated at a rate of speed exceeding ten miles per hour upon the waters of Gould Pond in the Town of Hillsboro.
16. **Gregg Lake:** Motor boats and outboard motors shall not be operated at a speed exceeding ten miles per hour when operating at any point within 500 feet of the shore beginning at the Meadows, so-called, on the northerly shore, and extending to the Narrows, so-called, on the easterly shore at a point approximately 500 feet south of Camp Birchmere.
17. **Horseshoe Pond:** Motorboats and outboard motors shall not be operated at a rate of speed exceeding ten miles per hour upon the waters of Horseshoe Pond in the Town of Merrimack.
18. **Little Diamond Pond:** Motor boats and outboard motors shall not be operated at a rate of speed exceeding ten miles per hour on any portion of Little Diamond Pond, so-called, in the Town of West Stewartstown.
19. **Melendy Pond:** Motor boats and outboard motors shall not be operated at a rate of speed exceeding ten miles per hour upon the waters of Melendy Pond in the Town of Brookline.
20. **Millen Lake:** Motorboats and outboard motors shall not be operated at a speed exceeding ten miles per hour on Millen Lake in the Town of Washington, provided, however, that this restriction shall not apply between the hours of 10:00 A.M. and 12:00 Noon and 2:30 P.M. and 5:30 P.M.
21. **Millville Lake:** Motor boats and outboard motors shall not be operated at a rate of speed exceeding ten miles per hour upon the waters of Millville Lake in the Town of Salem.
22. **Moores Pond.** Motor boats and outboard motors shall not be operated at a rate of speed exceeding ten miles per hour upon the waters of Moores Pond in the town of Tamworth.
23. **Naticook Lake:** Motorboats and outboard motors shall not be operated at a rate of speed exceeding ten miles per hour upon the waters of Naticook Lake in the Town of Merrimack.
24. **Newfound Lake:** Boats shall not be operated at a

rate of speed exceeding six miles per hour on that portion of Newfound Lake consisting of the so-called channel running in a general northeast to southwest direction between Cliff Island and Belle Island on the northwest and the mainland on the southeast. Boats shall not be operated at a rate of speed exceeding six miles per hour on that portion of Newfound Lake known as the channel between Mayhew Island and the mainland at Pikes Point.

25. **Norway Pond:** Motor boats and outboard motors shall not be operated at a speed exceeding ten miles per hour upon the waters of Norway Pond in the Town of Hancock.
26. **Pawtuckaway Lake:** Motor boats and outboard motors shall not be operated at a rate of speed exceeding six miles per hour on that portion of Pawtuckaway Lake known as the Bay of Fundy.
27. **Pemigewasset River:** Motorboats and outboard motors shall not be operated at a rate of speed exceeding ten miles per hour on the Pemigewasset River between Ayers Island Dam in the Town of Bristol and the bridge across the river from Plymouth to Holderness.
28. **Sandy Pond:** Motorboats and outboard motors shall not be operated at a rate of speed exceeding six miles per hour upon the waters of Sandy Pond in the Town of Richmond.
29. **Scobie Pond:** Motor boats and outboard motors shall not be operated at a rate of speed exceeding ten miles per hour upon the waters of Scobie Pond in the Town of Londonderry.
30. **Silver Lake (Hollis):** Motor boats and outboard motors shall not be operated at a speed exceeding ten miles per hour upon the waters of Silver Lake in the Town of Hollis, provided, however, that this restriction shall not apply between the hours of 10:00 A.M. and 12:00 Noon, and between 5:00 P.M. and 7:00 P.M., Mondays through Saturdays, inclusive, provided that such operations are conducted wholly beyond a point one hundred fifty (150) feet from any portion of the shores or other occupied boats on said lake.
31. **Spectacle Pond:** No power boat or outboard motor shall be operated at a speed exceeding ten miles per hour upon the waters of Spectacle Pond in the Towns of Groton and Hebron.
32. **Squam Lake:** Boats shall not be operated at a rate of speed exceeding six miles per hour in Squam River in the Town of Holderness between the southerly end of the boat house in Little Squam Lake near the Holderness Bridge and the light buoy at the lower or westerly end of Squam Lake.
Boats shall not be operated at a rate of speed exceeding six miles per hour in Squam River in the Town of Ashland.

33. **Lake Sunapee:** Boats shall not be operated at a rate of speed exceeding six miles per hour in Sunapee Harbor westerly from a line running northerly from the dock at Indian Cave Lodge, so-called.

Boats shall not be operated at a rate of speed exceeding six miles per hour in Burkehaven northwesterly of a line running north-easterly from the boat house on Emerald Island through the barrel light to the shore of Liberty Island.

Boats shall not be operated at a rate of speed in excess of ten miles per hour on that section of Sunapee Lake at Georges Mills Bay north-westerly from a line running southerly from the camp of John F. Seekamp on the north-easterly shore to the camp of Ernest Huber on the south-westerly shore. Boats shall not be operated at a rate of speed in excess of six miles per hour in Gardiner Bay west of a line between Weather's Dock on the south and Chamberlin's boat house on the north.

34. **Sunset Lake: (Gould Pond):** Motor boats and outboard motors shall not be operated on Sunset Lake in the Town of Greenfield, sometimes known as Gould Pond, at a rate of speed exceeding ten miles per hour, provided, however, that this restriction shall not apply between the hours of 3:00 P.M. and 6:00 P.M. on Monday through Saturday, both inclusive.

35. **Tarnic Pond:** Motor boats and outboard motors shall not be operated at a rate of speed exceeding ten miles per hour upon the waters of Tarnic Pond, also known as Ottarnic Lake, in the Town of Hudson.

36. **Turee Pond:** Motorboats and outboard motors shall not be operated at a rate of speed exceeding ten miles per hour upon the waters of Turee Pond in the Town of Bow.

37. **Lake Winnepocket:** Boats and outboard motors shall not be operated at a rate of speed exceeding ten miles per hour on that section of Lake Winnepocket in Webster north of a line running between Austin's Point on the west to the cottage presently owned by Clinton Frothingham on the east, provided, however, that this restriction shall not apply between the hours of 12:30 P.M. and 3:30 P.M. daily.

38. **Lake Winnepesaukee:** Boats shall not be operated at a rate of speed exceeding six miles per hour on that part of Lake Paugus lying southerly and westerly of the Laconia Water Works pumping station.

Boats and outboard motors shall not be operated at a speed exceeding six miles per hour in the Weirs Channel, so-called, between the light buoy in said channel near the Endicott Rock in Lake Winnepesaukee, and the southernmost light buoy in said channel in Lake Paugus.

Boats or outboard motors shall not be operated at a speed exceeding six miles per hour on that part of Alton Bay in Lake Winnepesaukee lying south of the line running east and west through the Band Stand. Commercial boats operating in this area shall pass on the east side of the band stand.

Boats shall not be operated at a rate of speed exceeding six miles per hour in either direction in that portion of Lake Winnepesaukee known as Sally's Gut from the easternmost to the westernmost buoys marking this passage.

Boats shall not be operated at a rate of speed exceeding six miles per hour from the black and white buoy situated off the southeasterly portion of Locke's Island in Lake Winnepesaukee to a point 600 feet northerly thereof.

Boats shall not be operated at a speed exceeding six miles per hour from the black and white buoy at the entrance of Smith's Cove at Glendale and south-westerly thereof.

Boats shall not be operated at a speed exceeding six miles per hour in the channel between Loon Island and the mainland in the Town of Meredith from the red buoy situated off the southeast portion of Loon Island to a point 400 feet northerly thereof.

Boats shall not be operated at a rate of speed in excess of ten miles per hour on Lake Winnepesaukee in the channel between Varney and Kenniston Islands from the black and white buoy marking the southeast entrance to the red buoy marking the northwest entrance of said channel.

Boats shall not be operated at a rate of speed in excess of six miles per hour on Lake Winnepesaukee in the channel between Pine Island and Meredith Neck between the black and white buoy and the red buoy marking the northerly and southerly entrances respectively.

Boats shall not be operated at a rate of speed in excess of six miles per hour on Lake Winnepesaukee in the channel between Horse Island and Meredith Neck, between the red buoy on the southerly approach and the black and white buoy at the northeasterly approach to said channel.

Boats shall not be operated at a rate of speed in excess of six miles per hour in the cove on the westerly shore of Welch Island between said Island and a line extended between the black and white buoy and the outermost red buoy.

Boats shall not be operated at speed exceeding ten miles per hour between navigation light number 69 and Governor's Island Bridge.

Motor boats and outboard motors shall not be operated at a rate of speed exceeding ten miles per hour from the entrance to Minge Cove at West Alton to the flashing light buoy located within said cove.

Motor boats and outboard motors shall not be operated at a rate of speed exceeding six miles per hour from the flashing light buoy in Minge Cove and southwesterly thereof.

Motor boats and outboard motors shall not be operated at a rate of speed exceeding ten miles per hour between Chase Island and Farm Island.

Motor boats and outboard motors shall not be operated at a rate of speed exceeding ten miles per hour

in the cove on the southwesterly side of Governor's Island.

39. Lake Winnisquam: Boats shall not be operated at a speed exceeding six miles per hour from the flashing light beacon on the westerly end of Mohawk Island to a point 400 feet northerly thereof.

Boats shall not be operated at a speed exceeding six miles per hour in the Winnisquam River, so-called, in the City of Laconia east of the light at Dixon Point.

Zephyr Lake: Motor boats and outboard motors shall not be operated at a rate of speed exceeding ten miles per hour upon the waters of Zephyr Lake in the Town of Greenfield.

41. Under Bridges: Boats shall be operated at headway speed only, while passing under all bridges.

42. Over powering: No watercraft shall be equipped with any motor or other means of propulsion beyond its safe power capacity as stated in its safe powering rating as rated by the manufacturer, or other operating conditions.

EQUIPMENT

1. Life Preservers—Number Carried

- a. Every boat, including non-power boats, shall carry at least one Coast Guard approved lifesaving device, clearly labeled or imprinted as such, maintained in good and serviceable condition for each person on board and so placed as to be readily accessible.
- b. Every boat including non-power boats shall carry at least one Coast Guard approved life saving device, clearly labeled or imprinted as such, maintained in good serviceable condition, of an appropriate size, for each person on board and so placed as to be readily accessible.
- c. The Director of Safety Services urges all pleasure boat owners to equip their boats with either a type I or type II Coast Guard approved life preserver, preferably "yoke" over-the-head type.
- d. This is urged on all pleasure boats of any size including powered boats, sailboats, canoes, kayaks or rowboats for each person on board.

2. Type of Life Preservers

- a. Class A, 1 & 2 motorboats shall carry either a Coast Guard approved life preserver, buoyant vest, ring life buoy, special purpose water safety buoyant device, or buoyant cushion for each person on board.
- b. Class 3 motorboats shall carry a Coast Guard approved life preserver or ring life buoy only for each person on board.
- c. Any motorboat carrying passengers for hire as a common carrier of passengers or property operating on a regular schedule shall carry an approved adult type life preserver bearing Coast Guard approval number 160.002 or 160.055 or 160.005 for each person on board. In addition, unless the service is such that children are never carried, there shall be provided

a number of approved life preservers suitable for children equal to at least 10 percent of the total number of persons carried.

- d. Occupants of small sailboats of the sailfish-sunfish type, windsurfers, and inflatable boats shall wear a ski belt or some form of wearable Coast Guard approved life preserver.

3. Classification of Boats

The Division of Safety Services recognizes and approves the following classes of power boats:

- Class A. Less than 16 feet in length.
- Class I. 16 feet to less than 26 feet in length.
- Class II. 26 feet to less than 40 feet in length.
- Class III. 40 feet and over in length.

4. Fire Extinguishers

Every motorboat shall be provided with such number, size, and type of fire extinguishers approved by the United States Coast Guard, as set forth below, which are capable of promptly and effectually extinguishing burning gasoline. Said extinguishers shall be kept in condition for immediate use and so placed as to be readily accessible at all times. The provisions of this section shall not apply to motorboats propelled by outboard motors while competing in any authorized race or such use as is incidental to tuning up of such boats and motors for the race.

Minimum Number of B-1 Hand Portable Fire Extinguishers Required*

Class of Motorboat	No Fixed Fire Extinguishing System in Machinery Spaces	Fixed Fire Extinguishing System in Machinery Spaces
	A	1
1	1	0
2	2	1
3	3	2

*One B-2 hand portable fire extinguisher may substitute for two B-1 hand portable fire extinguishers.

Fire Extinguisher Classification

Classification	Foam Type Size (Gallons)	Carbon Dioxide (Pounds)	Dry Chemicals (Pounds)
B-1	1½	4	2
B-2	2½	15	10

- 5. Glass Containers.** The carrying of gasoline in glass or plastic containers in any power boat is prohibited.
- 6. Flame Arresters.** The carburetor(s) of every 4 cycle engine installed on the power boats which uses gasoline as fuel, except outboard motors, shall be fitted with an approved device which has demonstrated its ability to arrest backfire, approved by the United States Coast Guard.
- 7. Number Plates.** The number plate shall be placed on outside at stern.

8. Special Requirements for Commercial Boats. All boats in which the motor or fuel tank is enclosed, and which are operated as commercial boats, shall in addition to equipment otherwise specified in these regulations, have equipment of a type to be approved by the Division of Safety Services as follows:

- a. An automatic or self actuating fire extinguisher in the engine compartment.
- b. A forced draft blower for ventilating the bilge, and engine and fuel tank compartments to remove inflammable and explosive gases.
- c. Two paddles (Class A and I only).

9. Special Regulations for Speed Boats Operated as Commercial Boats.

- a. Boats 16 feet in length or under shall not be powered by motors developing in excess of 165 h.p.
- b. Boats 22 feet in length or under shall not be powered by motors developing in excess of 225 h.p.
- c. Boats 24 feet in length or under shall not be powered by motors developing in excess of 275 h.p.
- d. Boats 26 feet in length or under shall not be powered by motors developing in excess of 300 h.p.
- e. Boats 28 feet in length or under shall not be powered by motors developing in excess of 325 h.p.

10. Ventilation. All power boats with a closed engine compartment which use gasoline or other inflammable fuel having a flash point of less than 110 degrees Fahrenheit, shall be provided with at least two ventilators fitted with cowls or their equivalent for the purpose of properly and efficiently ventilating the bilge, and engine and fuel tank compartment in order to remove any inflammable or explosive gases.

11. Exhaust Pipe Connections. No power boat shall be operated on the public waters of this state unless such boat is equipped with an exhaust discharge pipe extending outside the hull, with suitable connections to withstand exhaust pressure. Whenever flexible rubber hose connections are used they shall be installed only on boats which discharge circulating water through the exhaust pipe and at places where a full flow of water is maintained and shall in all cases be securely fastened by adequate hose clamps.

12. Fuel Tank Shut-Off. All power boats shall be equipped at each gasoline or other liquid fuel tank, having a capacity of 6 gallons or more, with a suitable shut off valve having a securely attached handle, which valve shall be readily accessible for use.

13. Muffling Devices. No boat or outboard motor shall be operated on the public waters of this state unless the same is provided with an adequate muffling device, or in case of outboard motors, a muffler intact as supplied by the manufacturer. So-called "racing mufflers" shall not be considered as complying with the law except when the boat or outboard motor is engaged in an authorized race as provided herein.

14. Whistles Required. All power boats including boats propelled by outboard motors shall be provided with an efficient whistle, horn or other sound-producing mechanical device for use in fog or other emergency.

15. Siren, flashing lights. No person, except an authorized representative of the state, or any of its political subdivisions, shall use a siren or flashing blue or red lights on state waters.

LIGHTS

16. Time for Lights. The rules concerning lights shall be complied with between sunset and sunrise, and during such time said lights shall be lighted and no other lights which may be mistaken for the prescribed lights shall be exhibited.

17. Requirements for All Power Boats. All power boats, including boats propelled by outboard motors, shall while under way, carry lights with distances of visibility on clear nights shown as follows:

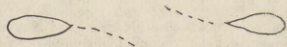
A. Motorboats of Classes A and I:

1. A bright white light aft to show all around the horizon.
2. A combined light on the fore part of the vessel and lower than the white light aft, showing green to starboard and red to port, so fixed as to throw the light from right ahead to two points abaft the beam of their respective sides.

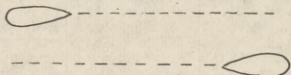
B. Motorboats of Classes 2 and 3:

1. A bright white light in the forepart of the vessel as near the stem as practicable, so constructed as to show an unbroken light over an arc of the horizon of twenty (20) points of the compass, so fixed as to throw the light ten (10) points on each side of the vessel; namely, from right ahead to two (2) points abaft the beam on either side.
2. A bright white light aft to show all around the horizon and higher than the white light forward.
3. On the starboard side a green light so constructed as to show an unbroken light over an arc of the horizon of ten (10) points of the compass, so fixed as to throw the light from right ahead to two (2) points abaft the beam on the starboard side. On the port side a red light so constructed as to show an unbroken light over an arc of the horizon of ten (10) points of the compass, so fixed as to throw the light from right ahead to two (2) points abaft the beam on the port side. The said side lights shall be fitted with inboard screens of sufficient height so set as to prevent these lights from being seen across the bow.

C. Each motorboat and any other type of watercraft, when propelled by sail alone, shall carry only the combined light or separate side lights as appropriate to its class, and in addition, one white light at the stern so constructed that it shall show an unbroken

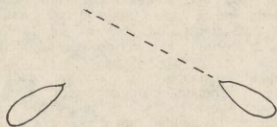


When the courses of such boats are so far on the starboard of each other as not to be considered as meeting head on, they shall keep to the left. The following diagram illustrates this rule:



The foregoing only applies to cases where boats are meeting head on or nearly so, in such a manner as to involve the risk of collision; in other words, to cases in which by day, either boat sees the other nearly in line, or by night when either boat is in such position as to see both red and green side lights of the other.

23. Boats Crossing Courses or Meeting Obliquely. When boats are crossing courses or approaching each other in an oblique direction so as to involve risk of collision, the boat which has the other on her own starboard (right) side shall keep out of the way of the other, which latter boat shall keep her course and speed. The following diagram illustrates this rule:



Under the foregoing situation the boat which is showing its red sidelight to the other is that which is on the starboard (right) side and has the right of way.

24. Passing or Overtaking Boats. When boats are running in the same direction and the boat which is astern shall desire to pass the other, it shall do so only when sufficient distance between the boats is available to avoid danger of collision and at such reduced speed that its wash will not endanger the boat being passed or its occupants. No person operating a boat shall abruptly change its course without first determining that it can safely be done without crossing immediately ahead of another boat.

25. Failure To Understand the Course of a Boat. If, when boats are approaching each other, either boat fails to understand the course or intention of the other from any cause, the boat or boats so in doubt shall be immediately slowed to a speed barely sufficient for

steerage way until the boats shall have safely passed each other. If it appears that danger of collision is imminent both boats shall stop or reverse and not proceed until such danger has been averted.

26. Safe Passing or Meeting Distances. All boats must keep at least one hundred fifty (150) feet distant from other boats, rafts, floats, a line of floats outlining swimming areas, or the shore, except when prevented by a narrow channel, or when approaching or leaving other boats, rafts, floats or the shore. In such latter exceptions, the speed of all boats shall be reduced to headway speed, so as to provide full visibility and control, and prevent their wash from being thrown into, or causing excessive rocking to other boats, barges, water skiers, aquaplanes or other boats, rafts or floats. This regulation shall apply to boats, barges, water skiers, aquaplanes or other devices being towed by power boats and the operator of a towing boat shall be responsible for compliance therewith.

27. Headway Speed Defined. For the purpose of these regulations, headway speed is the slowest speed that a power boat may be operated and maintain steerage way, but in no case to exceed six miles per hour on any of the public waters of the state.

28. Boat with Right-of-Way To Hold Course. When, by any of these rules, a boat is given the right-of-way, such boat shall hold its course and maintain such speed as the circumstances prudently permit.

29. Action of Boat Without Right-of-Way. Every boat which is directed by these rules to keep out of the way of another, shall, if necessary, slacken its speed, stop, or reverse, and avoid crossing ahead of any other boat.

30. Operating in Fog. When boats are running in a fog, mist, falling snow, or heavy rain storm, or when boats cannot see each other, it shall be the duty of the pilot to cause a long blast of the whistle or horn to be sounded at intervals not exceeding one minute.

A boat hearing the fog signal of another boat, apparently forward of the beam, the position of which is not ascertained, shall immediately slow to headway speed only, and then navigate with caution until danger of collision is over.

31. At Anchor in Fog. Boats of any kind or rafts, when at anchor in the normally travelled portion of the public waters, in a fog or thick weather, shall sound their fog signals at intervals of not more than one minute.

32. Rights of Canoes, Rowboats, and Sail Boats. Canoes, rowboats and sail boats shall be given the right-of-way, and whenever it can be reasonably avoided, no power boat shall pass a sail boat on its windward side.

33. Communication-Facilities Required. Whenever remote controls are not provided, the pilot house and engine room shall be equipped with a reliable communi-

cation system which shall be maintained in good working condition at all times. There shall be used between the master, or pilot, and the engineer a code of signals approved by the Division of Safety Services.

34. Pilot House Restrictions. Masters and pilots of passenger boats while under way shall not allow unauthorized persons to interfere with the navigation of such boats.

35. Care of Log Rafts. All rafts or booms of logs shall be accompanied, while in transit, by a trailer boat, the duty of which shall be to watch for and pick up any escaping logs, and to generally supervise the condition of the raft or boom while under way.

36. Commercial Boat Passengers. The number of passengers carried on any of the public waters of the state shall not exceed the passenger carrying capacity registered with the Department of Safety, Division of Safety Services.

37. Age of Commercial Operator. No Certificate to act as operator of a commercial boat capable of attaining speed of 25 or more miles per hour shall be issued to a person under 18 years of age on any of the public waters of the state.

38. Meeting or Passing Log Rafts. All boats when meeting or passing rafts or logs being towed shall, during such meeting or passing, reduce their speed to such an extent as to prevent their wash or wake from causing logs to break away or wash out of the raft or boom.

39. Power Boats Towing Water Skiers and Aquaplanes, Etc. No person shall operate a boat while towing water skiers, aquaplanes, or similar devices unless there is present in said boat in addition to the boat operator, another person in a position, and physically able to observe and assist the person or appurtenance being towed. The operator and observer shall be twelve or more years of age. The operator of such boat will be held responsible for compliance with the navigating rules for both the boat and the person or appurtenance being towed. Not more than two persons may be towed on water skis from the same boat at the same time. When two persons are being towed two observers shall be in the towing boat in addition to the operator. Said observers to be twelve years of age or older. The above shall not apply to water carnivals being held under permit. Except in connection with water carnivals and exhibitions authorized by the Director, no such activity may be conducted during the period between sunset and sunrise. No person shall be towed on water skis or other appurtenance unless said person is wearing a life jacket or ski belt except in connection with activities authorized under Rule 47.

40. Water Ski Jumps. No person shall locate for use on the public waters of this State, a water ski jump without first obtaining the approval of the Director, or his duly authorized representative.

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41. Accident Reports. Whenever any accident occurs involving a powerboat resulting in loss of life; loss of consciousness, medical treatment or disability in excess of 24 hours or property damage in excess of \$100.00, the operator or owner of such boat or boats shall report the details of the same within 48 hours to the Division of Safety Services. All accident reports shall be made on forms furnished by the Division. Any such report shall be without prejudice, shall be for the information of the Division of Safety Services and shall not be open to public inspection. The fact that such report has been made shall be admissible in evidence solely to show compliance with this Section but no such report nor any part thereof nor any statement contained therein shall be admissible as evidence for any purpose in any trial, civil or criminal.

42. Accident Assistance. In the case of collision, accident, or other casualty involving a power boat, subject to this Chapter, it shall be the duty of the operator, if and so far as he can do so without serious danger to his own craft, or persons aboard, to render such assistance as may be practicable and necessary to other persons affected by the collision, accident, or casualty in order to save them from danger caused by the collision, accident, or casualty. He shall also give his name, address and identification of his power boat to any person injured, to the operator of any other boat(s) involved, and to the owner of any property damage.

Any person who complies with this rule or who gratuitously and in good faith renders assistance at the scene of a vessel collision, accident, or other casualty, without objection to any 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 an ordinary reasonably prudent man would have acted under the same or similar circumstances.

43. Riding on Gunwales and Bow. No person shall operate a power driven boat or ride as a passenger therein while sitting on either the starboard or port gunwales and no person shall straddle the bow or transom while underway. The operator of such boat shall be responsible for compliance therewith.

44. Kite Skiing. No power boat shall be operated on the public waters of the State towing a kite skier or a person engaged in a similar activity without consent of the Director of Safety Services or his duly authorized representative except during approved Exhibitions, Water Carnivals or Regattas.

45. Overloading. No boat shall be operated while carrying passengers or cargo beyond its safe carrying capacity, taking into consideration weather and other operating conditions.

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SPECIAL REGULATIONS FOR BOAT RACING AND WATER CARNIVALS

46. **Flag To Be Displayed.** When boats are racing or running time trials in a program and on a course which has been approved by the Director, those in charge of the race or trial events shall display in a conspicuous position from the committee boat, stand, barge, or wherever the officials are stationed, an orange flag, not less than 4 ft. by 4 ft. in size. While said flag is displayed, no boat or aircraft shall foul, traverse or cross the race course. Said flag shall be removed, when the course is clear, after each time trial or race event; and shall be displayed again with the five-minute warning before the next race or time trial.
47. **Automatic Shut-Off Required.** When boats powered with outboard motors are racing or running time trials in a program and on a course which has been approved by the Director, provision must be made for the automatic shutting off of the ignition or closing of the throttle, in case the operator is thrown out of such boat during a race or time trial.
48. **Water Carnivals, Exhibitions, Etc.** Any person or organization sponsoring a water carnival or an exhibition involving the operation of power boats shall obtain the consent of the Director or his duly authorized representative. Application for such events shall be submitted to the Division of Safety Services at least 10 days in advance of the proposed activity and shall specify the date, time and type of event to be sponsored.
49. **Boats, Private, Rental and Commercial.** These may be inspected by the Director of Safety Services or his duly authorized representative, to determine their seaworthiness, at any time. No person shall allow to remain on the waters of this state, any vessel which fails to pass such inspection.

BUOYING SYSTEM

Lights and buoys are maintained for your protection, and care should be used when anchoring for fishing or other purposes, that they are not obstructed to operators of boats approaching on regular navigation lanes. When in doubt as to the correct side on which a buoy should be passed, slow down and proceed with caution. When proceeding on other than accepted navigation lanes boats should not be operated near the shore unless the operator is entirely familiar with water conditions.

There is no guarantee that lights and buoys will always be in their proper position. Caution is advisable at all times.

Aids to navigation and waterway markers are as follows:

1. Spar Buoys.

- a. **White Buoy with Black-top**—go north or east. When navigating on an east-west or west-east course go north. When navigating on a north-south or south-north course go east.

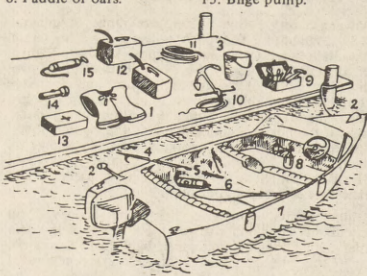
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- b. **White Buoy with Red-tops**—go south or west. When navigating on an east-west or west-east course go south. When navigating on a north-south or south-north course go west.
- c. **All-Black Buoy**—go between it and its companion all-red buoy. This buoy is used together with the all-red buoy to mark a well-defined channel.
- d. **All-Red Buoy**—go between it and its companion all-black buoy. This buoy is used together with the all-black buoy to mark a well-defined channel.
2. **Flashing Light Buoys.** These are range or general direction indicators. The flash is usually white but in some instances, due to interference of shore lights, amber or red colors may be used. The color of the flashing light does not control navigation directions. The spar buoy adjacent to such lights indicates the governing direction for navigation. When navigating at night use the light for general direction keeping the course of the boat a few degrees to the correct side or passage as indicated by the buoy adjacent to it. Never approach a light head on as it is often very difficult to ascertain the distance between it and your boat.
3. **Bridge Lights.** Whenever lights are displayed on bridges fixed red lights will mark the edges of the safe channel with a single fixed green light placed over the center of the safe channel to indicate maximum vertical clearance.
4. **Regulatory Markers.** These are geometric figures painted international orange and white. They indicate the existence of danger, speed zones, swim areas and other controls. Spelled out words or recognized abbreviations may appear on these markers to convey their meaning to the operators of boats.

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BOAT SAFETY CHECK LIST

- | | |
|---|----------------------------|
| 1. Approved life-saving device for each person. | 7. Fenders. |
| 2. Proper lights (not required if boat is not operated after sunset). | 8. Horn or whistle |
| 3. Bailing bucket. | 9. Tool kit. |
| 4. Boat hook. | 10. Anchor. |
| 5. Fire extinguisher. | 11. Line. |
| 6. Paddle or oars. | 12. Gasoline cans (spare). |
| | 13. First-aid kit. |
| | 14. Flashlight. |
| | 15. Bilge pump. |

**CHAPTER 321.**

**AN ACT RELATIVE TO CONTROLLING USE
OF HEATING OR AGITATING DEVICES IN
THE WATERS OF THIS STATE**

Be it Enacted by the Senate and House of Representatives in General Court convened:

321:1 Navigation of Public Waters. Amend RSA 270 by inserting after section 32 the following subdivision:

Use of Aqua-Therm

270:33 Heating, Agitating or Other Devices in Public Waters, Safety Hazard. No person shall put, place, operate or cause to be put, placed or operated in the waters of this state any so-called heating, agitating or other device which inhibits or prevents the natural freezing of water, or forming of ice, and impedes either the ingress or egress to or from ice by means of any public access thereto. If the heating, agitating or other device is placed anywhere else, nearby signs shall likewise be placed to warn of possible danger. Said signs shall read **DANGER, THIN ICE** and shall be of sufficient size to be readable at a distance of not less than one hundred and fifty feet, and shall be visible from all directions and shall be equipped with reflectors and color-coded in a pattern unique for this purpose only. The department of safety is hereby authorized to establish said unique design and coloring and any

homemade copies shall follow this design and coloring. The provisions of this section shall be enforced by any law enforcement agency under the direction of the department of safety pursuant to RSA 106-A:14 and the department of fish and game pursuant to RSA 206:26.

270:34 Registration Required. Any person operating or hereinafter operating any such agitating or heating device which tends to inhibit the natural production of ice on public waters must obtain a registration to be designed and distributed by the department of safety, from the municipal clerk of the town in which such device shall be operated and said registration shall contain the name and address of owner and the location of said device. A permanent file of such registrations shall be kept by municipal clerks and a fee of fifty cents per registration may be charged.

270:35 Penalty. Any person seeking to operate a device tending to inhibit the natural production of ice on public waters in violation of this subdivision shall be, if a natural person, guilty of a violation and if any other person, guilty of a misdemeanor, and the activity enjoined by the court on grounds of public or private nuisance constituting a hazard to public or private safety.

321:2 Effective Date. This act shall take effect November 1, 1973

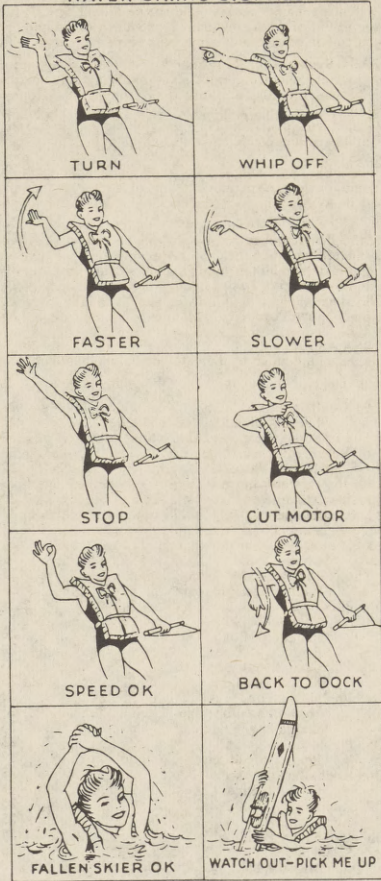
Approved June 27, 1973

WATER SKIING SAFETY

The increasing popularity of water skiing has created new safety problems. If you are interested in this sport please make certain to take along a second person to act as an observer and be sure the skier is wearing a proper lifesaving device. Don't tow the skier in heavily traveled or restricted waters; such as swimming areas; narrow, winding channels; and areas containing docks, floats, and buoys. Stop your motor before taking the skier on board.

The following set of signals is recommended by the American Ski Association:

WATER SKIING SIGNALS



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SYNOPSIS

Boating Laws Rules, Regulations



Department of Safety
Division of Safety Services
Concord, New Hampshire 03301

Richard M. Flynn
Commissioner of Safety

Alton H. Stone
Director, Division of Safety Services

IMPORTANT

This synopsis of New Hampshire boating laws is offered only as a convenience to boat users and has no legal weight. For exact wording, refer to the Boating Laws, Rules and Regulations publication.

- Boats must be kept at least 150 feet from swimming rafts or floats outlining a swimming area and other boats unless operated at headway speed.
- Boats towing water skiers or an aquaplane must have an observer 12 years of age or older for each person being towed. No more than two skiers or aquaplanes are permitted. Two skiers require two observers in addition to the boat operator.
- No person, including the operator, may ride on a seat back, on the gunwales or transom or straddle the bow. The operator of the boat is responsible for compliance. Avoid sharp, high-speed turns to prevent capsizing.
- Headway speed is required on certain waters, under certain conditions and when passing under bridges. Headway speed is the slowest speed possible to maintain steerage but may not exceed 6 mph.
- All inboard boats and outboard motors must be registered before use on inland waters and the number plate displayed on the stern. Registrations are effective Jan. 1 to Dec. 31.
- Registration and/or operating privileges may be suspended or revoked by the Director of Safety Services for improper operation or violation of boating laws.
- The owner of any boat involved in an accident which results in injury, death or damage of more than \$100

IMPORTANT

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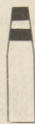
must file a written report with the Director of Safety Services on a form provided by him within 48 hours of the accident.

- Anyone operating a boat under the influence of alcohol or a controlled drug is guilty of a misdemeanor. Conviction can result in a fine and/or imprisonment. A one-year revocation of the privilege to operate a boat in the state is mandatory. Operation after revocation also constitutes a misdemeanor.
- No boat may have a marine toilet which discharges waste into the water.
- Littering is unlawful and is a misdemeanor.
- All boats, including those propelled by sail or hand, must carry Coast Guard-approved personal flotation devices (PFD's). Boats 16 feet long or longer must have a Type I, II or III life jacket or vest for each person aboard plus a Type IV, or throwable, device. Boats under 16 feet must have a Type I, II, III or IV device for each person aboard. It is recommended a yoke, or over the head, type life jacket be carried for each person regardless of the size or type of boat. Each person using sailboards, inflatable boats or windsurfers must wear a water ski belt or approved life jacket or vest at all times.
- Each powered boat, including those with electric outboard motors, must carry an approved fire extinguisher with the size, contents and number determined by the size and type of boat. See Boating Laws, Rules and Regulations publication.
- Gasoline may not be carried in glass or plastic containers in any powered boat.
- Lights are required on all boats used between sunset and sunrise. See the law book for specific requirements.
- No person 12 years of age or younger may operate a boat with power exceeding 25 hp unless he or she is accompanied by an adult. The adult becomes responsible for any injury or damage caused by the operation of the boat by that person.

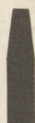
BUOYS, LIGHTS



White spar buoy with black top. Keep either to north or east of this buoy, depending on course travelled.



White spar buoy with red top. Keep to the south or west of this buoy, depending on course travelled.



All black buoy. Go between it and companion red buoy. These two buoys mark a channel.



All red buoy. Go between it and companion black buoy. These two buoys mark a channel.

- Flashing light buoys are general direction indicators and are used adjacent to the spar buoys which determine direction. When navigating at night, keep the course a few degrees to the correct side of spar buoy adjacent to it after determining the direction dictated by that buoy.

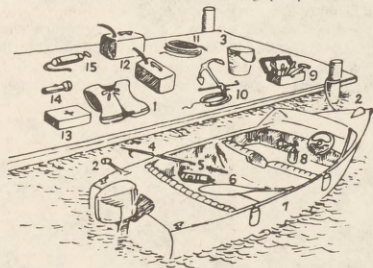
- Red lights on bridges indicate the edges of a safe channel. The green light shows the center of the channel and indicates maximum vertical clearance.
- Boats may be operated only at headway speed while passing under bridges.

RULES OF THE ROAD

- When two boats are approaching each other head on or nearly so, each must keep to the right of the other.
- Canoes, rowboats and sailboats have the right of way over powerboats.
- When two boats are approaching each other at an angle, the boat on the right has the right of way.
- When one boat overtakes another, the forward boat must not be passed unless there is sufficient room to avoid a collision. Passing must be done at a reduced speed so the wake will not endanger the boat being passed.
- When a boat is given the right of way, that boat shall maintain its course and speed to avoid confusing the operator of the other boat.
- Boats towing water skiers must obey rules of right-of-way.

BOAT SAFETY CHECK LIST

- | | |
|---|----------------------------|
| 1. Approved life-saving device for each person. | 7. Fenders. |
| 2. Proper lights (not required if boat is not operated after sunset). | 8. Horn or whistle. |
| 3. Bailing bucket. | 9. Tool kit. |
| 4. Boat hook. | 10. Anchor. |
| 5. Fire extinguisher. | 11. Line. |
| 6. Paddle or oars. | 12. Gasoline cans (spare). |
| | 13. First-aid kit. |
| | 14. Flashlight. |
| | 15. Bilge pump. |



REFER TO THE BOATING LAWS, RULES AND REGULATIONS BOOK FOR THE LIST OF SPEED AND OTHER RESTRICTIONS ON CERTAIN WATERS.

DEPARTMENT OF TRANSPORTATION



COAST GUARD

NEW!

FEDERAL
REQUIREMENTS
FOR RECREATIONAL
BOATS

JUNE 1975

CG-290

This is a vertical rectangular graphic with a black border. At the top left, a diagonal banner contains the word 'NEW!' in large, bold, white letters. To the right of this banner, the text 'FEDERAL REQUIREMENTS FOR RECREATIONAL BOATS' is written in a smaller, bold, sans-serif font. The central part of the graphic is a black and white line drawing of five different types of recreational boats on a body of water. From top to bottom: a sailboat with a person at the helm; a speedboat with a person at the helm; a canoe with a person inside; a kayak with a person paddling; and a rowboat with two people inside. The water is depicted with small, scattered dots. At the bottom left of the graphic, the text 'JUNE 1975' is printed. At the bottom right, the text 'CG-290' is printed.

NUMBERING REQUIREMENTS

The Federal Boat Safety Act of 1971 and its implementing regulations established a standard system for the numbering of undocumented vessels. Undocumented vessels are to be numbered (registered) in the State in which the vessel is principally used. If a vessel is equipped with propulsion machinery of any type, and is used principally on the waters subject to the jurisdiction of the United States in New Hampshire, Washington, Alaska, American Samoa, the Certificate of Number will be issued by the U.S. Coast Guard. A vessel used principally on the high seas is required to be numbered by the State in which it is principally used when not on the high seas.

Certificate of Number

The Certificate of Number showing the numbers issued to a vessel must be on board whenever the vessel is in use. A number awarded by the U.S. Coast Guard is valid for 3 years.

Validation Stickers

With each Certificate of Number issued by the U.S. Coast Guard, two color-coded validation stickers are also issued. The validation sticker must be displayed within 6 inches of the number.

Display of Number

The vessel's number must be painted on or permanently attached to each side of the forward half of the vessel (the bow), and no other number may be displayed thereon. Numbers are to read left to right, be in plain vertical block characters, be of a color contrasting with the background, be distinctly visible and legible, and be not less than 3 inches in height. Example:

OK 2334 FG or OK-2334-FG

Numbering Systems

A State numbering system (valid for not more than 3 years) may require the numbering of any vessel subject to the jurisdiction of the State unless prohibited by Federal regulation. Each State with an approved numbering system must recognize the validity of a number issued by the U.S. Coast Guard or by another State having an approved system for a period of at least 60 days before requiring numbering in the new State of principle use.

Information about numbering systems is available from State agencies, U.S. Coast Guard units, and marine dealers.

Notification of Changes Required

When a vessel is lost, destroyed, abandoned, stolen, recovered, or transferred, the person whose name appears on the certificate of number as the owner shall within 15 days notify the authority which numbered the vessel.

If the Certificate of Number is lost or destroyed or the owner changes his address, he shall notify the issuing authority within 15 days.

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A person whose name appears as the owner of a vessel on a Certificate of Number shall surrender the certificate in the manner prescribed by the issuing authority within 15 days after it becomes invalid for any reason.

BOATING ACCIDENT REPORTS

When as a result of an occurrence that involves a vessel or its equipment, a person dies or disappears from a vessel, the operator shall, without delay, notify the nearest U.S. Coast Guard or State boating authority of:

- a. The date, time, and exact location of the occurrence.
- b. The name of each person who died or disappeared.
- c. The number and name of the vessel.
- d. The names and addresses of the owner and operator.

(If the operator cannot give this notice, each person on board shall notify that authority, or determine that such notice has been given.)

The operator of a vessel shall submit the Boating Accident Report Form (CG-3865) or proper State form within 48 hours of an accident in which:

- a. A person dies within 24 hours.
- b. A person loses consciousness or receives medical treatment or is disabled for more than 24 hours.
- c. A person disappears from the vessel under circumstances that indicate death or injury.

Accidents must be reported within 5 days if damage to the vessel and other property totals more than \$100 or an earlier report is not required.

LAW ENFORCEMENT

U.S. Coast Guard vessels are identified by a distinctive stripe, the words *Coast Guard* on the side of the vessel, the Coast Guard Ensign, and are manned by uniformed personnel. Coast Guard law enforcement personnel may also be found aboard other vessels displaying the Coast Guard Ensign.

A vessel underway, upon being hailed by a Coast Guard vessel or patrol boat, is required to stop immediately and lay to, or maneuver in such a way as to permit the boarding officer to come aboard. Failure to stop to permit boarding may subject the operator or owner to a maximum penalty of \$500.

A civil penalty of \$500 may be imposed by the Coast Guard for failure to comply with numbering requirements, to observe the Rules of the Road, to comply with equipment requirements, to report a boating accident, etc.

NEGLIGENT OR GROSSLY NEGLIGENT OPERATION of a vessel which endangers life, limb, or property is prohibited by law. A civil penalty may be imposed by the Coast Guard for negligent operation, or the operator may be subjected to a fine up to \$1,000, or imprisonment of not more than 1 year, or both, for the criminal offense of GROSSLY NEGLIGENT OPERATION.

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94-05 actions that may constitute negligent
negligent operation under certain circumstances
are:

- a. Operating recklessly in swimming areas,
- b. Operating while under the influence of alcohol or drugs and recognizable by erratic operation,
- c. Excessive speed in the vicinity of other boats, or in dangerous waters,
- d. Unsafe water skiing practices,
- e. Operating in clearly dangerous areas,
- f. Bow, seatback, gunwale, or transom riding.

Termination of Use

If a Coast Guard Boarding officer observes a boat operating in an UNSAFE CONDITION, specifically defined by law or regulation, and determines that an ESPECIALLY HAZARDOUS CONDITION exist, he may direct the operator to take immediate steps to correct the condition, including returning to mooring. The specific unsafe conditions for which termination may be imposed are:

- a. Insufficient lifesaving devices (PFD'S)
- b. Insufficient firefighting devices
- c. Overloaded condition
- d. Improper navigation light display
- e. Fuel leakage
- f. Fuel in the bilges
- g. Improper ventilation
- h. Improper backfire flame control
- i. Hazardous bars (13th Coast Guard district only)
- j. Manifestly unsafe voyage

IF THE OPERATOR REFUSES TO COMPLY WITH THE ORDER TO TERMINATE UNSAFE USE OF THE BOAT, HE CAN BE CITED FOR FAILURE TO COMPLY WITH THE DIRECTIONS OF A COAST GUARD BOARDING OFFICER (33 CFR 177.05), AS WELL AS FOR THE SPECIFIC STATUTORY OR REGULATORY VIOLATIONS OR PROVISIONS WHICH WERE THE BASIS FOR THE TERMINATION ORDER.

COAST GUARD APPROVED EQUIPMENT

"COAST GUARD APPROVED EQUIPMENT" IS EQUIPMENT WHICH HAS BEEN APPROVED BY THE COMMANDANT OF THE U.S. COAST GUARD AND HAS BEEN DETERMINED TO BE IN COMPLIANCE WITH U.S. COAST GUARD SPECIFICATIONS AND REGULATIONS RELATING TO THE MATERIALS, CONSTRUCTION AND PERFORMANCE OF SUCH EQUIPMENT.

Personal Flotation Devices (PFD)

Personal Flotation Devices are classified by "Type". The number and "Type" required on a recreational boat is dependent on the length of the boat, as follows:

- 1. All recreational boats less than 16 feet in length, and all canoes and kayaks must have one Type I, II, III, device (of a suitable size) or IV aboard for each person.
- 2. All recreational boats 16 feet in length and over must have one Type I, II, or III device of a suitable size aboard for each person and, in addition, one throwable Type IV device.
- 3. The type I, II, and III devices shall be readily accessible to all persons on board. The type IV device shall be immediately available for use.

Types of Personal Flotation Devices

Type I—

A Type I PFD is any approved wearable device designed to *turn* an unconscious person in the water from a face down position to a vertical or slightly backward position, and to have more than 20 pounds of buoyancy. Recommended for offshore cruising.

Type II—

A Type II PFD is any approved wearable device designed to *turn* an unconscious person from a face down position to a vertical or slightly backward position and to have at least 15.5 pounds of buoyancy. Recommended for closer inshore cruising.

Type III—

A Type III PFD is any approved wearable device designed to keep a *conscious* person in a vertical or slightly backward position and to have at least 15.5 pounds of buoyancy. While the Type III has the same buoyancy as the Type II PFD, it has a less turning moment. It does, however, allow greater wearing comfort and is particularly useful when water skiing, sailing, hunting, or engaged in other such water sports. It is recommended for use on lakes, impoundments, and close inshore operation.

Type IV—

A Type IV PFD is any approved device designed to be *thrown* to a person in the water. It is *not* designed to be worn. It is designed to have at least 16.5 pounds of buoyancy. The most common Type IV device is a buoyant cushion. A ring buoy is also a Type IV device.

Type V—

A Type V PFD is any approved wearable device designed for a specific and restricted use. The exact specifications and performance of a Type V PFD will vary somewhat with each device.

ALL PERSONAL FLOTATION DEVICES (PFD'S) THAT ARE PRESENTLY ACCEPTABLE ON RECREATIONAL BOATS FALL INTO ONE OF THESE

DESIGNATIONS. ALL WEARABLE PFD'S SHALL BE U.S. COAST GUARD APPROVED, IN SERVICEABLE CONDITION, AND OF AN APPROPRIATE SIZE FOR THE PERSON WHO INTENDS TO WEAR IT.

Commercial Vessels

All commercial vessels and boats carrying passengers-for-hire should check with the closest U.S. Coast Guard unit or Marine Safety Office to determine their PFD carriage requirements.

Fire Extinguishers

Each fire extinguisher is classified, by letter and roman numeral according to the type of fire it may be expected to extinguish, and the size of the extinguisher. The "letter" indicates the TYPE OF FIRE:

- A—Fires of ordinary combustible materials.
- B—Gasoline, oil and grease fires.
- C—Electrical fires.

Extinguishers approved for motorboats are hand-portable, of either B-I or B-II classification.

CLASSIFICATION (type-size)	FOAM (minimum gallons)	CARBON DIOXIDE (minimum pounds)	DRY CHEMICAL (minimum pounds)	FREON (minimum pounds)
B-I	1½	4	2	2½
B-II	2½	15	10	—

Fire extinguishers must be carried in ALL motorboats that have one or more of the following:

1. Closed compartments under thwarts and seats wherein portable fuel tanks may be stored, or
2. Double bottoms not sealed to the hull or which are not completely filled with flotation materials, or
3. Closed living spaces, or
4. Closed stowage compartments in which combustible or flammable material are stored, or
5. Permanently installed fuel tanks.

Flame Arresters

(Backfire Flame Control)

Installations of backfire flame arresters made before November 19, 1952 need not meet the latest requirements of approval, and may be used as long as they are in good condition. Automotive air breathers and containers with steel wool, however, are not acceptable.

Engines installed after November 19, 1952 MUST HAVE A U.S. COAST GUARD APPROVED FLAME ARRESTER FITTED TO THE CARBURTOR OR BEAR A LABEL INDICATING THAT THE COAST GUARD HAS APPROVED THE USE OF THAT ENGINE WITHOUT AN ARRESTER.

MINIMUM REQUIRED EQUIPMENT BY LENGTH OF BOAT

1. Less Than 16 Feet In Length:

BACK-FIRE FLAME ARRESTER—One approved device on each carburetor of all gasoline engines installed after April 25, 1940 EXCEPT OUTBOARD MOTORS.

VENTILATION—At least two ventilator ducts fitted with cowls or their equivalent for the purpose of properly and efficiently ventilating the bilges of every engine and fuel tank compartment of boats constructed or decked over after April 25, 1940, using gasoline as fuel and other fuels having a flashpoint of 110° F. or less.

There shall be at least one exhaust duct installed so as to extend to the lower portion of the bilge and at least one intake duct installed so as to extend to a point at least midway to the bilge or at least below the level of the carburetor air intake.

BELL, WHISTLE—None.

PFD—See "Personal Flotation Devices".

FIRE EXTINGUISHER/PORTABLE—When NO fixed fire extinguishing system is installed in machinery space(s):

At least one B-1 type approved hand portable fire extinguisher. (NOT REQUIRED on outboard motorboats less than 26 feet in length if the construction of such motorboats will not permit the entrapment of explosive or flammable gases or vapors.) When a fixed fire extinguishing system is installed in machinery space(s), one less B-1 type extinguisher is required.

POLLUTION PREVENTION: See Water Pollution And The Recreational Boatman.

2. 16 Feet To Less Than 26 Feet In Length:

BACK-FIRE FLAME ARRESTER—Same requirements as Section I.

VENTILATION—Same requirements as Section I.

BELL, WHISTLE—No bell required. One hand, mouth, or power operated whistle, audible at least one-half mile.

PFD—See "Personal Flotation Devices".

FIRE EXTINGUISHER/PORTABLE—Same requirements as Section I. Same for fixed systems also.

POLLUTION PREVENTION: Same as Section I.

3. 26 Feet To Less Than 40 Feet In Length:

BACK-FIRE FLAME ARRESTER—Same requirements as Section I.

VENTILATION—Same requirements as Section I.

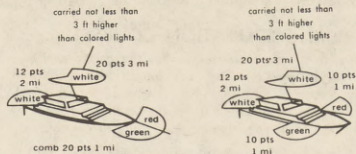
BELL—One, which when struck, produces a clear, bell-like tone.

Whistle—One hand or power-operated, audible at least 1 mile.

PFD—See "Personal Flotation Devices".

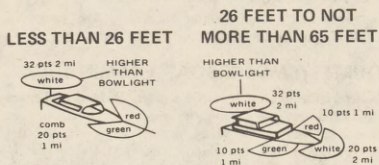
LIGHTS REQUIRED ON BOATS UNDERWAY BETWEEN SUNSET AND SUNRISE

VESSELS OF LESS THAN 65 FEET USING INTERNATIONAL WATERS (May be used on Inland waters)

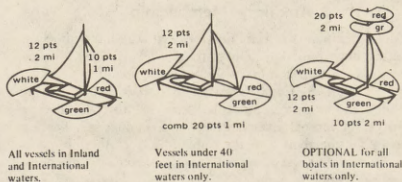


INTERNATIONAL: (1) Vessels 40 to less than 65 feet in length must carry 20 point white light 9 feet above gunwale as well as 3 feet higher than colored sidelights. (2) All vessels may display either separate colored sidelights or combined lanterns except vessels under sail alone 40 to less than 65 feet in length must display separate colored sidelights.

VESSELS USING ONLY INLAND WATERS (including Great Lakes and Western Rivers)



VESSELS UNDER SAIL ALONE



All vessels in Inland and International waters.

Vessels under 40 feet in International waters only.

OPTIONAL for all boats in International waters only.

EXCEPTIONS: (1) Western River Rules. Sidelights for vessels under sail must be visible for 3 miles. (2) Great Lakes. On the Great Lakes sailing vessels show a white light (in lieu of a stern light) upon that portion of the vessel which is being approached by another vessel.

LIGHTS FOR USE WHEN ANCHORED OR ROWING

POWER BOATS under 65 feet and all Sailing Vessels at anchor must display anchor lights except those under 65 feet in "special anchorage areas." An anchor light is a white light visible to a boat approaching from any direction, and is displayed in the fore part of the vessel.

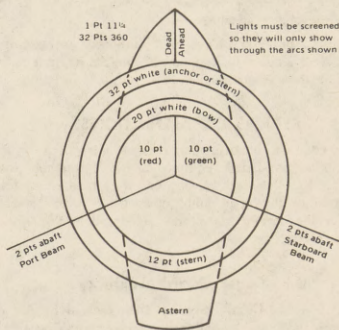
LIGHTS FOR ROWING BOATS



ROWING BOATS: Rowing boats whether under oars or sail shall have ready at hand a lantern showing a white light which shall be temporarily exhibited in sufficient time to prevent collision.

IMPORTANT: LIGHTS MUST BE PLACED HIGH ENOUGH THAT THEIR LIGHT WILL NOT BE BLOCKED BY PERSONS OR PARTS OF THE BOAT OR ITS EQUIPMENT.

DEFINITION: "10 pts. 1 mi." means that the light can be seen through an arc of 10 points for a distance of 1 mile by another vessel.



FIRE EXTINGUISHER/PORTABLE—At least two B-I type approved portable fire extinguishers; or at least one B-II type approved portable fire extinguisher. When an approved fixed system is installed, one less B-I type is required.

POLLUTION PREVENTION: Same as Section I.

4. 40 Feet To Not More Than 65 Feet In Length:

BACK-FIRE FLAME ARRESTER—Same requirements as Section I.

VENTILATION—Same requirements as Section I.

BELL—One, which when struck, produces a clear, bell-like tone.

Whistle—One power operated, audible at least 1 mile.

PFDF—See "Personal Flotation Devices".

FIRE EXTINGUISHER/PORTABLE—At least three B-I type approved portable fire extinguishers; OR at least one B-I type PLUS one B-II type approved portable fire extinguisher. When an approved fixed system is installed, one less B-I type is required.

NOTE: Fire extinguishing equipment requirement for MOTOR VESSELS greater than 65 feet in length can be found in Title 46, Code of Federal Regulations, Part 25 and in the U.S. Coast Guard publication "Rules and Regulations for Uninspected Vessels, Subchapter C" (CG-258).

POLLUTION PREVENTION: Same as Section I.

Measuring Your Boat For Length

For determining the length of a vessel, the distance is measured in a straight line from the foremost part of the vessel to the aftermost part of the vessel, parallel to the centerline, exclusive of sheer.

Bowsprits, bumpkins, rudders, outboard motors and brackets, and similar fittings or attachments are not to be included in the measurement.

REPAIRS OR ALTERATIONS

When you are repairing or making alterations to the boat or its associated equipment, don't tamper with SAFETY. Careless workmanship or safety habits may lead to injury or death. If in doubt, contact a reputable marine dealer for the correct procedures to be followed in either repairs or alterations.

U.S. Coast Guard Auxiliary

The U.S. Coast Guard Auxiliary was created by Act of Congress in 1939 as a non-military volunteer organization to:

- promote efficiency in the operation of motorboats.
- foster a wider knowledge of and better compliance with the laws, rules and regulations governing the operation of motorboats.

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- promote safety and effect rescues on and over the high seas and the navigable waters of the United States.

- facilitate other operations of the Coast Guard.

Today's Auxiliary has over 41,000 members organized into over 1300 flotillas located throughout the United States.

PUBLIC EDUCATION COURSES

The Auxiliary offers courses in boating safety and seamanship to the public. They are taught by experienced Auxiliary members and the only charge is for material. For information, contact your local Auxiliary flotilla or what for a notice in your newspaper. The courses are:

Boating Skills and Seamanship (6 required lessons plus 7 elective lesson)

The most complete Auxiliary course, covering marlinespike, seamanship, Rules of the Road, aids to navigation, piloting, safe motorboat operation and boating laws.

Principles of Sailing (7 lessons)

Up-to-date course for safely handling sailboats in fair weather and foul.

Safe Boating (3 lessons)

A compact presentation of the elements of seamanship.

Skipper's Outboard Special (SOS) (1 lesson)

An excellent "starter" course presenting the basics of safe boating to the occasional and novice boatman.

COURTESY MOTORBOAT EXAMINATION

To determine if your motorboat meets Federal and State safety-related equipment requirements as well as further recommended safety standards, contact a member of the Coast Guard Auxiliary for a free Courtesy Motorboat Examination. A decal is awarded to motorboats which pass the examination. If your boat does not have the proper equipment, NO REPORT IS MADE TO ANY LAW ENFORCEMENT AUTHORITY. The Auxiliary examiner will advise you of the deficiencies so that you can correct them.

Auxiliary Membership

Membership in the U.S. Coast Guard Auxiliary offers an exciting opportunity to help your fellow boatmen while improving your own boating skills. As the volunteer, civilian arm of the U.S. Coast Guard, Auxiliarists patrol marine parades and regattas, assist boatmen in distress, conduct Courtesy Motorboat Examinations, and conduct safe boating courses for members and the public. For further information on the Auxiliary and its programs contact your local Auxiliary flotilla or your U.S. Coast Guard District office.

United States Power Squadrons

Organized in 1914 and completely self-supporting, the United States Power Squadrons is America's largest boating

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educational organization, with approximately 90,000 members in more than 400 Squadrons. The local Squadrons throughout the country and abroad present a basic course of 10 lessons, which is known as the *USPS Boating Course*. The course is open to men, women and teen-agers and instructions are provided free. For information on classes, which begin in January and September in most areas of the country, USPS has set up a toll free telephone number which may be called 24 hours a day, seven days a week. The number is 800-243-6000 (in Conn. only, 1-800-882-6500). If you care to write the address is: United States Power Squadrons, 50 Craig Road, P.O. Box 345, Montvale, New Jersey 07645.

American Red Cross

Local chapters of the American National Red Cross offer instruction in various phases of water safety.

State Boating Authorities

Many States have boating safety education programs. Your State may be one of them. For more information, contact your State boating authority.

Programmed Learning Text

SKIPPER'S COURSE—\$1.50 by mail, order from GPO, Superintendent of Documents, Washington, D.C. 20013 or from the Consumer Product Information Center, Pueblo, Colo. 81009

WATER POLLUTION AND THE RECREATIONAL BOATMAN

The recreational boatman has an important stake in the effort to keep the nation's waters free from pollution. You must help to provide and protect clean water not only for your own recreation but also for the enjoyment of sport fishermen, divers, swimmers, and all who appreciate a beautiful and bountiful natural resource. An important part of the responsibility to protect the marine environment is observing the Federal water pollution laws.

The Refuse Act of 1899 prohibits the throwing, discharging, or depositing of any refuse matter of any kind (including trash, garbage, oil, and other liquid pollutants) into the waters of the United States to a distance of three miles from the coastline. The Federal Water Pollution Control Act prohibits the discharge of oil or hazardous substances into the waters of the United States to twelve miles offshore. You must immediately notify the U.S. Coast Guard if your vessel or facility discharges oil or hazardous substances into the water.

Federal regulations issued under the Federal Water Pollution Control Act require:

(1) All vessels under 100 gross must have a fixed or portable means to discharge oily bilge slops to a reception facility. A bucket or bailer is considered a portable means.

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(2) Vessels 26 feet in length and over must have posted a placard at least 5 by 8 inches, made of durable material, fixed in a conspicuous place in the machinery spaces, or at the bilge and ballast pump control station, stating the following:

DISCHARGE OF OIL PROHIBITED

The Federal Water Pollution Control Act prohibits the discharge of oil or oily waste into or upon the navigable waters and contiguous zone of the United States if such discharge causes a film or sheen upon, or discoloration of, the surface of the water, or causes a sludge or emulsion beneath the surface of the water. Violators are subject to a penalty of \$5,000.

(3) No person may drain the sumps of oil lubricated machinery or the contents of oil filters, strainers, or purifiers into the bilge of any U.S. vessel.

You must also help to ensure that others obey the law. You are encouraged to report polluting discharges which you observe to the nearest U.S. Coast Guard office. Report the following information:

- a. location,
- b. source,
- c. size,
- d. color,
- e. substance,
- f. time observed.

Do not attempt to take samples of any chemical discharge. If uncertain as to the identity of any discharge, avoid flame, physical contact, or inhalation of fumes.

LOADING YOUR BOAT

There are several things that should be remembered when loading a boat. Distribute the load evenly; keep the load low; don't stand up in a small boat; don't overload. The weather and water conditions should be taken into account, too. If the water is rough, the number of persons carried should be reduced.

The U.S. Coast Guard requires that manufacturers of certain boats display on each boat a "U.S. Coast Guard Capacity Information Plate". This requirement applies to all monohull boats less than 20 feet in length manufactured on or after November 1, 1972. Exceptions to this rule are sailboats, canoes, kayaks, and inflatable boats. The "U.S. Coast Guard Capacity Information Plate" is intended to provide safety information to the boatman, who may not have expert knowledge of a particular boat's characteristics, in order to reduce the dangers of inadvertent overloading or overpowering. These recommended values are for fair weather and do not relieve the boatman of the responsibility for exercising individual judgment.

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In the absence of a capacity plate, there is a simple rule of thumb to help prevent overloading of boats. To determine the number of persons you can safely carry:

$$\frac{L \times W}{15} = \text{(Number of Persons)}$$

L=Overall length of boat

W=Maximum width of boat (both dimensions in feet and tenths of feet.)

The result, or the next smallest whole number if the result is a fraction, gives the number of persons that can be safely put aboard, in *good weather conditions*.

You should verify the capacity of your boat before loading to insure the boat will in fact safely carry the planned load.

PRODUCT ASSURANCE

Under the Federal Boat Safety Act of 1971 manufacturers of boats and associated equipment built after 11 August 1971 are directly responsible for assuring that their products are free of serious manufacturing defects, and that they comply with applicable Federal safety standards or regulations. If a Coast Guard investigation reveals that a reported safety related defect extends to other boats of the same manufacture, the manufacturer will then be REQUIRED to notify all owners and take appropriate corrective action. If you experience a serious problem which may have been the result of a defect in design or construction when it was originally manufactured, contact your nearest Coast Guard District. The information you provide may prevent serious boating accidents endangering other boaters.

SAFE BOATING TIPS

1. Gasoline vapors are explosive. Close all doors, hatches, and ports while fueling. Extinguish galley fires and pilot lights. Smoking is strictly prohibited. Keep the filling nozzle in contact with the tank to prevent sparks. Portable tanks should be fueled out of the boat. Do not use gasoline stoves, heaters, or lights on board.

2. Do not operate electronic gear (i.e., radios) while fueling.

3. Know your fuel tank capacity.

4. After fueling, ventilate all compartments and check the machinery and fuel tank spaces for fumes before starting the motor. Remember, the electrical ignition system could provide the spark to an accumulation of gasoline vapors. Keep fuel lines tight and bilges clean.

5. Do not permit persons to ride on parts of the boat not designed for such use. Bow, seatback, or gunwale riding can be especially dangerous.

6. Keep an alert lookout. Serious accidents have resulted from failure to use your eyes.

7. Be especially careful when operating in any area where swimmers or divers may be. *Divers* are easily recognized by the *red flag with a white diagonal slash* which marks the approximate center of their activities.

8. Watch your wake. You are responsible.

9. Know and Obey the rules of the Road.

10. *Always* have children and non-swimmers wear personal flotation devices.

11. If you capsize, remember that if the boat continues to float, stay with it.

12. Good housekeeping is even more important afloat than ashore. Cleanliness diminishes the probability of fire and tripping hazards.

13. Have an anchor and sufficient line to assure a good hold in a blow.

14. Know the various distress signals. It is recommended that you carry a mirror, flashlight, flares, smoke, etc., to insure you can be seen if trouble develops.

15. Learn the weather warning signals.

16. Water ski only when you are well clear of all other persons. There should *always* be two people in the tow boat; one to watch the skier, the other to operate the boat.

17. Be extremely careful of your footing. Falls are one of the chief causes of accidents.

18. Always instruct one other person on board in handling your boat in case you become disabled or fall overboard.

19. Before departing on any boat trip, always leave a "Float Plan" with someone ashore. This "Float Plan" should indicate a description of your boat, number of passengers, destination, proposed route, and other information which you feel would aid in finding you should an emergency develop. Always advise the person you left your "Float Plan" with, of your arrival or return.

20. Properly maintain, stow, and learn to use the safety equipment carried on board your vessel. In an emergency, the equipment will do you little good if it is unserviceable, stowed in an unreachable location, or if you are unfamiliar with its operation or use.

FOR FURTHER INFORMATION:

- Director of Auxiliary
1st Coast Guard District
150 Causeway Street
Boston, Mass. 02114
- Director of Auxiliary (WR)
2d Coast Guard District
210 N. 12th St.
Rm. 545
St. Louis, Missouri 63101
- Director of Auxiliary (SR)
2d Coast Guard District
110 9th Avenue, S.
Nashville, Tennessee 37203
- Director of Auxiliary (ER)
2d Coast Guard District
550 Main Street, Rm. 4016
Cincinnati, Ohio 45202
- Director of Auxiliary (NR)
2d Coast Guard District
Federal Building
Ft. Snelling
Room 668
St. Paul, Minn. 55111
- Director of Auxiliary (NR)
3d Coast Guard District
Governors Island
New York, N.Y. 10004
- Director of Auxiliary (SR)
3d Coast Guard District
Coast Guard Base Gloucester
King and Cumberland Streets
Gloucester, New Jersey 08030
- Director of Auxiliary
5th Coast Guard District
Federal Building
431 Crawford Street
Portsmouth, Virginia 23705
- Director of Auxiliary
7th Coast Guard District
Room 1203, Federal Building
51 S.W. First Avenue
Miami, Florida 33130
- Director of Auxiliary
8th Coast Guard District
Room 306, Custom House
New Orleans, Louisiana 70130
- Director of Auxiliary (ER)
9th Coast Guard District
N.S. NAV RESTRACEN
Room 221
1089 E. 9th St.
Cleveland, Ohio 44114
- Director of Auxiliary (CR)
9th Coast Guard District
Room 207
U.S. Post Office Building
Federal and Jefferson Sts.
Saginaw, Mich. 48605
- Director of Auxiliary (WR)
9th Coast Guard District
2420 S. Lincoln Memorial
Drive
Milwaukee, Wis. 53207
- Director of Auxiliary
11th Coast Guard District
Heartwell Bldg.
19 Pine Avenue
Long Beach, Calif. 90802
- Director of Auxiliary
12th Coast Guard District
630 Sansome Street
San Francisco, Calif. 94126
- Director of Auxiliary
13th Coast Guard District
618 2d Avenue
Seattle, Washington 98104
- Director of Auxiliary
14th Coast Guard District
677 Ala Moana Blvd.
Honolulu, Hawaii 96813
- Director of Auxiliary
17th Coast Guard District
P.O. Box 3-5000
Juneau, Alaska 99801

OR:

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|--|---|
| Commander
1st Coast Guard District (b)
150 Causeway Street
Boston, Massachusetts 02114 | Commander
9th Coast Guard District (b)
1240 East Ninth Street
Cleveland, Ohio 44139 |
| Commander
2d Coast Guard District (ob)
1520 Market Street
St. Louis, Missouri 63103 | Commander
11th Coast Guard District (ob)
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19 Pine Avenue
Long Beach, California 90802 |
| Commander
3d Coast Guard District (ob)
Governors Island
New York, New York 10004 | Commander
12th Coast Guard District (ob)
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| Commander
5th Coast Guard District (ob)
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Portsmouth, Virginia 23705 | Commander
13th Coast Guard District (b)
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51 S.W. 1st Avenue
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