

***70th Meeting
of the
National Boating Safety Advisory Council***

**Marriott
San Mateo, California**

October 28th and 29th, 2002

Monday, October 28, 2002

National Boating Safety Advisory Council (NBSAC) meeting minutes are available on the U.S. Coast Guard Office of Boating Safety Web Site at: <http://www.uscgboating.org>

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Council Members Present

Mr. James P. Muldoon, Chairman

**Mr. Fernando J. Garcia
Mr. Larry R. Innis
Ms. Karen P. Kelly
Mr. David C. Marlow
Ms. Linda Jo Moon
Mr. Frederick J. Shepard
Mr. Scott P. Swanby
Mr. William G. Engfer**

**Mr. Fred F. Messmann
Mr. Raynor T. Tsuneyoshi
Mr. Edwin R. Woolley, Jr.
Ms. Lucia A. Roberts Francis
Commodore Carolyn V. Belmore
Ms. Joan M. Bondareff
Mr. Robert P. David
Mr. Jim L. Manues**

Council Members Absent

**Mr. Edwin R. Fendig, Jr.
Ms. Eleanor C. Mariani**

**Ms. Caroline C. Ajootian
Lieutenant Lyle W. Belknap**

U.S. Coast Guard Headquarters Representatives Present

Rear Admiral Carlton Moore, USCGR
Representing
Council Sponsor

Mr. Jeff Hoedt
Executive Director, NBSAC
Chief, Program Management Division

Captain Scott H. Evans,	Chief, Office of Boating Safety
Mr. Carlton Perry,	Regulatory Coordinator, Office of Boating Safety
Mr. Bruce Schmidt,	Statistician, Office of Boating Safety
Mr. Richard Kanehl,	Rec. Boating Product Assurance Div., Office of Boating Safety
Mr. Richard Gipe	Engineer, Office of Boating Safety
Mr. John Sukys	Budget Officer, Office of Boating Safety
Mr. Jeffrey Glossop,	Data Analyst, Potomac Management Group

0830 – Meeting called to order by Chairman James P. Muldoon

Chairman Muldoon asked Council members and guests to identify themselves when making a comment, and also speak loudly and clearly for transcribing purposes. He then asked the Council members to introduce themselves.

Commodore Carolyn Belmore from the Coast Guard Auxiliary

Bob David representing the National Boating Federation and the U.S. Power Squadrons.

Bill Engfer from the Department of Natural Resources, Wisconsin

Fernando Garcia from Bombardier Recreational Products

Larry Innis from the Marine Retailers Association of America

Karen Kelly from Sail America

Jim Manues from the Marine Recreation Association.

Dave Marlow from Sea Ray Boats

Fred Messmann Boating Law Administrator from Nevada

Linda Jo Moon from Rock Cove International

Lucia Roberts Francis Department of Planning and Natural Resources, U.S. Virgin Islands

Eric Shepard from Peninsula Systems

Scott Swanby from SOS Inc.

Ray Tsuneyoshi Boating Law Administrator, California

Ted Woolley Boating Law Administrator, Utah

Chairman Muldoon from the United States Sailing Association, he then asked Ray Tsuneyoshi to introduce Mr. Michael Sweeney.

Ray Tsuneyoshi welcomed the crowd and introduced Mr. Sweeney. Michael Sweeney was born in Oakland, and was employed as a cannery and warehouse worker to support himself at Cal State Hayward, where he earned a B.A. and a M.A. He taught high school and adult education until being elected to the City Council. He served as Mayor of Hayward from 1990 to 1994. From 1994-98 he was a member of the California State Assembly. In 1999, Mr. Sweeney was appointed as Undersecretary of the California Resource Agency, which oversees a \$5.2 billion budget and over 15,000 employees in 27 departments. He welcomed Michael Sweeney.

Michael Sweeney welcomed the Council to the Bay area on behalf of Governor Gray Davis and Secretary Mary Nichols. He then said that Ray Tsuneyoshi had done an outstanding job for the Department and for the Agency. He said that he had worked with him on such issues as how to control invasive weeds in the Delta. He then said that these are not easy issues to solve, but are issues that are important to the boating community.

He said that the State of California had 2,600 navigable miles of waterways with one million registered boats using these waterways. The Governor has fully funded the department's requests for safety programs. He has also supported life jacket use for those under the age of twelve and for all people. He admitted that drinking is a constant problem on the vessels, and wanted to learn from the Council with their different experiences. By working together, he said, they could make California boating as well as National boating much safer for everyone. He said that they were honored that Ray (Tsuneyoshi) was appointed by Secretary of Transportation Norman Mineta to the Council. He looked forward to learning from the Council and hoped that the Council could learn something from the State of California. He again thanked the crowd and wished that they would take the time to enjoy the Bay area.

Chairman Muldoon thanked Mr. Sweeney for the warm welcome. He then asked everyone to sign into the roster, and then asked the guests present to introduce themselves as well.

Captain Scott Evans, Chief, Office of Boating Safety

Captain Jeffrey Lantz Chief, Office of Design and Engineering Standards

Mark Suttie from Lake Powell Resorts and Marinas

Dick Snyder from Mercury Marine (retired)

Todd Lemke from Mercury Marine

Alvin Taylor, President NASBLA, BLA from South Carolina

Philippe Ras from ABYC

Captain David MacFarland, Director of the Coast Survey, NOAA

Commodore Warren McAdams of the USCG Auxiliary

John Lucius from Halkey-Roberts Inflation Systems

Russ Robinson, Vice President, Recreational Boaters of California

Russ Levin Maritime Communications, Coast Guard Headquarters

Jeff Gunn USCG (ret.), California Boating Safety Officers Association

Jeff Ludwig of the Personal Watercraft Industry Association

Kirsten Rowe Executive Director of the Personal Watercraft Industry Association

Greg Schafer Eleventh Coast Guard District

Gail Ramsey U.S. Coast Guard Auxiliary

Nita Boles Coalition of Parents and Families for PWC Safety

Linda Steely from the Aaron Foundation

Karen Steely from the Aaron Foundation, Coalition and SPIN

Jeff Hoedt Executive Director of the NBSAC

Carl Perry Regulatory Coordinator, Coast Guard Headquarters

Jeffrey Glossop Potomac Management Group, Coast Guard Headquarters

Chairman Muldoon asked Captain Evans to introduce the next speaker

Captain Scott Evans thanked the Council for coming, and expressed his enthusiasm for discussing important recreational issues. He said that the Coast Guard had scheduled a meeting with all of the Admirals and he had decided that he would ask his friend, Reserve Admiral Carlton Moore to speak at the NBSAC meeting.

Admiral Moore is now an attorney in the California area, and was called back to active duty after September 11th and became the Deputy Area Commander for the Atlantic Area. The Captain said that Admiral Moore had been involved in the reorganization of the Coast Guard from the start. He was assigned to Coast Guard Headquarters to help reorganize in the months following the terrorist attacks. He had served as a BLA for the state of California until relieved by Ray Tsuneyoshi. He was also the Vice-Chair of the Navigation Safety Advisory Council. He thanked the Admiral for attending and introduced the Admiral.

Admiral Moore said that he was delighted to speak in front of the Council and was glad to see that the Western States were well represented. He stated that he had a preselected topic to discuss the Coast Guard in their transition from the Department of Transportation to the new Department of Homeland Security. He also said that he would discuss some boating safety issues, including Rescue 21.

The Admiral began by recapping the activities the Coast Guard has preformed since September 11th. He stated that the “new mission” of homeland security was not a new mission at all. It had been a mission since the Coast Guard’s founding in 1790 but had not been at the forefront. He said that they had decided to link the Coast Guard’s search and rescue mission to the new security efforts. He said that now, security issues would rank equally with search and rescue in importance. He stated that previous to September 11th, 2.5% of Coast Guard resources were devoted to maritime security, which has grossly changed since then. Since the terrorist attacks, boardings and searches have dramatically increased. He said it was the highest port security project since World War II. The Admiral also stated that they had had tremendous support from the Coast Guard Auxiliary who had dedicated 210,000 volunteer hours.

Admiral Moore then described the new Department of Homeland Security. He showed a diagram of the set up of the new Department. He said that the purpose of this new Department was to protect the safety of the American people since September 11th and to improve information sharing between agencies. He stated that there was no government agency with the sole purpose of homeland security and that this new Department was needed to fulfill such a role. Along with protection against future attacks, the Department was also in charge of coordinating efforts in case of future attacks. The new Department would consolidate relevant programs from different agencies to make one department whose mission would be to protect the homeland.

Admiral Moore stated that the Department would be broken down into four different divisions: transportation security, emergency preparedness and response, weapons of mass destruction countermeasures, and information analysis and infrastructure protection. The Transportation security aspect of the new Department would take control of border security, immigration and customs services as well as the Coast Guard. The emergency preparedness and response would oversee domestic disaster preparedness and coordinate training for disaster preparation. The new Department would also be in charge of preparing for and responding to the full range of terrorist threats including preparations for an attack using nuclear, biological or chemical attacks, this would also include emergency response training to prepare for a possible attack. The final responsibility of the new Department would be information analysis and infrastructure protection. The new Department would link multiple intelligence agencies to analyze information in order to protect the homeland. He said that there were two versions of this bill before Congress, one in the Senate would keep the Coast Guard in tact, and the other in the House would separate the intelligence gathering aspect of the Coast Guard and centralize it into the rest of Homeland Security. He said that the Coast Guard was arguing to not dismantle the Coast Guard. The Department would also work with States who would be creating their own departments to coordinate security preparations.

Admiral Moore also said that the New Department would have a number of functions not related to combating terrorism. For example, he said that the Federal Emergency Management Agency would be responsible for responding to natural disasters. The Coast Guard would continue to be responsible for search and rescue as well as many other maritime functions. Other functions such as drug interdiction and naturalization issues would also be preformed by the new Department. He then assured the Council that the Coast Guard, although upgrading their homeland security mission, traditional roles of search and rescue and maritime safety would not be compromised.

He then stated that he really came to talk to the Council about boating safety. He said that each member of the Council was an expert in their respective fields and he thanked them for taking time to provide such a useful service to the Coast Guard. He then discussed the Coast Guard’s new Rescue 21 program. He said that, basically, Rescue 21 would take the search out of search and rescue. He said that with this new program, that when someone would use their radio or

other device, a signal would be transmitted with the location of the boat. He said that the Coast Guard had awarded General Dynamics to modernize the distress response system, dubbed Rescue 21. He said that standard radios would work with the system so that boaters would not need to buy new equipment to be involved in the program.

He said that it was a pleasure to speak in front of the Council, and said that he would now be giving out awards.

Awards:

Ray Tsuneyoshi said that he had replaced the Admiral 19 months previous to the meeting, and he thanked him for his assistance in helping him into his new position.

Admiral Moore thanked Ray Tsuneyoshi for his kind words. He then said that awards would be handed out for public service in NBSAC.

Admiral Moore and Jeff Hoedt presented the public service commendations to **Commodore Belmore, Karen Kelly, Fred Messmann, Lucia Roberts Francis, and Eric Shepard**

Chairman Muldoon then asked Coast Guard representatives to identify themselves who were forgotten beforehand.

Rick Gipe Coast Guard Office of Boating Safety

Bruce Schmidt Coast Guard Office of Boating Safety

John Sukys Coast Guard Office of Boating Safety

Rich Kanehl Coast Guard Office of Boating Safety

Chairman Muldoon asked if anyone else had come in since the start of the meeting and asked them to identify themselves*.

Unidentified Man from San Francisco State University

EXECUTIVE DIRECTOR'S REPORT

Chairman Muldoon then called for the Executive Director's Report

Jeff Hoedt welcomed the Council and guests to the meeting. He thanked the Council, the Chairman, Ray Tsuneyoshi for hosting the event, his staff, and Rear Admiral Moore. He then said that he would read the previous Council's resolutions and respond to them.

On the NBSAC recommendation that the Coast Guard implement the use of the 17-character Hull Identification Number (HIN) system, Mr. Hoedt stated that the Coast Guard lacked the adequate justification based on safety to move forward with a new 17-digit HIN rulemaking. He said that while the Coast Guard would like to help lending and insurance industries as well as law

* Also present, but not accounted for in the minutes were: Joanne Dorval, Ron Simner from Ride Technology, Kelly Ian from WMSSA, Michael Han from Shasta Lake Resorts, Tom Steep from Maritech, Ward Latimer from Bay Sailing, Keith Jackson from Maritech, Gil Conn from CMPHA, and Marion de Cruz from Stop Propeller Injuries Now

enforcement agencies, they were unable to justify a regulatory action as required in their authorizing language.

On the second resolution requesting the Coast Guard pursue regulations requiring the installation of “fire ports” in engine compartments of new vessels and to encourage aftermarket installation through educational means, he stated that in the Coast Guard review of historical accident data, it was determined that fire ports would have had little or no effect on the outcome of the accidents. In addition, industry experts have questioned the effectiveness of the fire port, claiming that in some cases it produced the opposite result. The Executive Director said that this means that the Coast Guard has no defensible justification to proceed with rulemaking on this issue.

On the third resolution requesting that the Coast Guard investigate to discover suitable means to indicate completion of fuel filling on vessels with built in fuel tanks, the Executive Director said that in the Coast Guard review of the status of fuel fills, it was determined that many manufacturers currently use a vent line in the system so that overflow goes back into the fill line. Also, there are several aftermarket items available that are placed in the vent line or attached to the vent line, but they can clog if used improperly; and use of them would introduce a possible safety hazard to alleviate an environmental concern. He said that the Office of Boating Safety had determined that there was insufficient justification for further action on the issue.

On the fourth resolution requesting the Coast Guard to go forward with rulemaking to include all State requirements on PFD wear for children, the Executive Director replied that the Coast Guard published an Interim Rule on June 24, 2002 that adopts State requirements, and requirements for children under the age of 13 for those States who do not have a law. The effective date of this rule is December 23, 2002, and the Coast Guard plans to update NBSAC of the project’s status.

On the fifth resolution requesting that the Coast Guard consult with the Research and Special Projects Administration to develop guidance to States, industry, and consumers on how to dispose of flares that have expired in a safe manner, Mr. Hoedt replied that the Coast Guard has solicited requests for FY ’03 grant proposals to accomplish this task.

The Executive Director then announced the dates and locations of the next three meetings:

Spring 2003	April 26-29, 2003	Tidewater area, VA
Fall 2003	October 25-28, 2003	Washington DC area
Spring 2004	April 17-20, 2004	St. Louis MO, area

Chairman Muldoon asked if there were any questions. The Chairman then called for any old business. Seeing that there was none, he moved on to members’ items.

MEMBER’S ITEMS

Ted Woolley was interested in receiving a copy of the Coast Guard’s minimum safety standards in recreational boating safety and also receiving a definition of what a “minimum safety standard” is.

Ray Tsuneyoshi was disappointed that the Coast Guard did not support the 17-digit HIN and wanted to know if the Council could reintroduce the issue at the next meeting.

Chairman Muldoon stated that it was possible for the Council to ask the Coast Guard to do this.

Scott Swanby first wanted a grant update on NASBLA's ergonomics for labeling and classification of PFDs. Secondly, he wanted information on ISO Standardization for PFD classification. He also wanted an update on the Sportsman's Grant put forth by the Coast Guard due to an unusually high number of casualties among anglers and hunters and the grant's success in helping this issue. He also wanted an update on the contract to develop dummies to test PFDs. He also wanted information on including PFDs in BARD to track their effectiveness. Finally, he wanted an update on a grant that the National Marine Manufacturers Association (NMMA) received on PFD education at the next meeting.

Eric Shepard wanted the Council to reiterate their stance on the 50/50 split in the Wallop Breaux trust fund.

Lucia Roberts Francis wanted the Council to address the issue of CO₂ cartridges for inflatable PFDs being banned from airplanes.

Linda Jo Moon was concerned with canoe/kayak safety issues and wanted to invite the Professional Paddlesports Association to present what they are doing to decrease deaths. She also was concerned with lifejackets for children but wanted to know more about the classifications of life jackets and those which can turn a child face up and those which cannot.

Fred Messmann also wanted to know what the statutory language of "minimum safety standards" was, along with Mr. Woolley, especially as it relates to the HIN numbers and mufflers for noise. He was also concerned with other governmental agencies, such as the National Park Service, passing laws that were not in accordance with Coast Guard regulations or State regulations. He was curious if the Coast Guard could form a committee between government organizations to have uniformity in the laws.

Dave Marlow wanted to know where the Coast Guard got the information regarding fire port safety. He felt that the data provided did not agree with the marine industry and hoped the Council could help find the proper data sources. He also wanted the Coast Guard to become involved in EPA regulations regarding emissions for marine fuel components.

Jim Manues also wanted to support the Council in the 50/50 split of the Wallop Breaux fund. He requested more information on the type of PFD required in the rulemaking for PFD use for children. He also believed that the Coast Guard was dragging their heels on the 17-digit HIN and believed that the government would benefit from such a program.

Karen Kelly also was concerned about Wallop Breaux.

Larry Innis also had concerns about the 17-digit HIN and thought the Council should proceed on the issue. He also wanted to support the 50/50 split in Wallop Breaux funding.

Fernando Garcia agreed with David Marlow that he wanted to hear more about fire ports. He also agreed with Mr. Marlow that the Coast Guard should be more involved in the EPA process regulating emissions. He was also concerned with Mr. Messmann's item of uniformity between the Coast Guard and other government agencies. Mr. Garcia was also interested in hearing more information about the NPS proposal to enact no wake zones for PWCs, but not for other vessels, which could lead to a safety hazard.

Bill Engfer wanted information on how the Coast Guard would handle the costs to the States in implementing the Vessel Identification System (VIS).

Bob David was anxious to get their fair share in Wallop Breaux funding. He also wanted to support the 17-digit HIN. He said that he had just gotten back from Europe and they had already started using the system.

Joan Bondareff wanted a new campaign to focus on canoe and kayak safety. She also wanted to make sure that all States were in compliance with the child PFD rule. She supported an increase in boating safety education to reduce operator error. She wanted PFD standards that make sense and requested an update on the reauthorization of the TEA 21 act. She requested that the Council support boating safety in the new Department of Homeland Security and that the Council pass a resolution to support a position of Undersecretary for the Coast Guard. She said that she personally wanted to see that healthcare and societal costs are considered in rulemaking in the cost-benefit analysis.

Commodore Belmore echoed concerns with canoes and kayaks. She also wanted to see the flare disposal kept on the horizon and for the Council to be kept updated.

Chairman Muldoon then asked the Council if anyone had thought of anything else that they would want to have brought up.

Ted Woolley wanted a definition of “whitewater” for inflatable PFD use.

Ray Tsuneyoshi wanted to reinforce a request by the California State Sheriff’s Association to remove exemption for children in boats over 40’ in California law.

Chairman Muldoon advocated a “take no prisoners approach” to Wallop Breaux and sensed that most people on the Council felt the same way. He also wanted to be advised on why some proposals were rejected and wanted to discuss some of those issues further.

He then introduced **Captain Scott Evans** for a Recreational Boating Safety Program report on VIS.

RECREATIONAL BOATING SAFETY REPORT—VIS

Captain Evans started off by saying how much he appreciated the advisory council system and the importance of the Council’s role in the Office of Boating Safety. He also said that in the meeting the previous April that the Office was undermanned and overextended, but that they had since hired some new staff members including Mr. Jeff Hoedt and that the Office was back up to full compliment and running at full speed.

He then went on to describe Boating Safety’s role in the new Department of Homeland Security. He assured the Council that the Office had never been in better hands, and he used Admiral Moore as an example. He explained that the Commandant had specifically expressed his desire to maintain the Boating Safety Program, and how safety and security are two sides of the same coin, protecting harbors and protecting the public at the same time.

He mentioned that the issues discussed in the two previous days were important to him, and that he fully understood that there were members of the audience who paid out of pocket to attend the

meeting. He said that he had personally worked very hard to help develop an off-throttle steering voluntary standard through the Society of Automotive Engineers (SAE) process and was pleased to announce that the proposed standard is at the full committee level in the SAE process and that standard should be out soon.

The second issue, he said, was to reduce the number of propeller injuries. This issue has been debated for nearly ten years now, and he believed that it was time to start moving forward. He also brought up canoes and kayaks and that the Coast Guard had commissioned studies to try to identify ways to reduce the number of casualties associated with these vessels.

He then moved on to the subject of the Vessel Identification System (VIS) and admitted that the process had been extremely frustrating to all concerned. VIS was born through an initiative by lending institutions and maritime lawyers to track boat ownership, and was then advocated by law enforcement to help identify boats that may have been involved in a crime. Shortly after he had taken over the Office, the General Accounting Office (GAO) conducted an audit on VIS to determine the status and identify problems encountered in the project. The Coast Guard spent money to develop the system but then determined that voluntary participation by the States was a problem that threatened to leave the system incomplete. In meetings with the House Authorization Committee, the focus was now on homeland security, and the capabilities that VIS would provide would help the Coast Guard in its homeland security efforts.

The Captain stated that he was in full support of the System, primarily to help law enforcement be able to identify what they are getting into while conducting boardings. The Captain said that it was his drive to get VIS up and moving forward.

He then moved on to the issue of whether State participation should remain voluntary or not. He admitted that this was a difficult issue; getting 56 jurisdictions to comply and participate in VIS could become overwhelming. He announced to the Council that VIS is still alive after being nearly defeated a number of times and asked the Council if they supported the System and to give their input.

The Captain then stated that the reauthorization of Wallop Breaux was also at the top of his list of priorities. He stated his belief that the recreational boating public had never been as organized as it is now.

He then mentioned that the Lewis and Clark 200th Anniversary Commemorative Event would begin in January 2003, and that this was an opportunity to demonstrate how well the Federal, State and local governments, along with over 315 boating organizations, can cooperate to handle such a large multi-year event.

Carbon monoxide is another issue that would not go away any time soon, according to the Captain. He said that there had been much interest on Capital Hill, with Congressmen and Senators inviting Coast Guard representatives in to update them on CO and other boating safety issues.

He said that he viewed all accidents as a chain of links tied together which resulted in the accident. Using BARD, he said that the Coast Guard is trying to identify these links and where the chain of events can be broken to prevent accidents in the future. He briefly mentioned the Supreme Court case where NBSAC was mentioned several times. He said that the PFD-13 rule was moving along, and that this was one of the first times in history whereby the Federal government enacted a rule to help strengthen and enforce state laws. He then brought up the 17-

digit HIN, stating that he heard the Council loud and clear. He understood that States wanted to enact a 17-digit HIN system but that there were manufacturers who did not agree with the change. At that point, the Captain did not know whether the Coast Guard had the justification to force the manufacturers to comply with such regulations. He also wanted to talk about the participation of recreational boaters in harbor safety councils (HSC). He believed that it was time for the recreational boater to become more involved in assisting local and State governments with managing the operation and security of their harbors. He was currently helping to facilitate the development of organized recreational boating Subcommittees, made up of anyone involved in recreational boating, to help ensure their participation in the HSC process. He then brought up a few things to look forward to, including an off-throttle steering standard, prop guards, flare disposal and a variety of other issues that the Office has been working on.

Finally, he mentioned that a few months ago he was given a demonstration on the possibilities of ultra violet (UV) technology, and how UV lighting could eventually allow for buoys and boats to be seen from miles away. He asked “where do you want to be in 10 years” and discussed how he envisioned being able to use a hand held UV light and see buoys as far as two miles away. “How will the Coast Guard get there?” he asked, and then said that the Council can help in making it happen.

Although there have been a lot of hurdles this past year, he said that it was time to get moving on many of these important issues. He does not like the term “we can’t do it” and he wanted to let the Council know that he will do what he can to get things done. He said that he had three years left in the job and hopefully could do some neat stuff in that time.

Chairman Muldoon asked if there were any questions.

Fred Messmann was wondering about the Captain’s comments that there was industry opposed to HINs as that was something that he had not seen. And it was his recollection that the resolution at the last NBSAC meeting, which was accepted, was also supported by the industry.

Chairman Muldoon asked if there were any more questions, and then thanked the Captain. He thanked his assistant, Joanne, for her help in preparing him for the meeting and then called for a break. There were offers for those who received awards to get their pictures taken with the Admiral.

Chairman Muldoon asked **Como. Belmore** to introduce the next speaker.

Como. Belmore thanked **Admiral Moore** for his kind words towards the Coast Guard Auxiliary who have put in many hours since September 11th. She then introduced **Como. Warren McAdams**, a former Lieutenant in the Army. He graduated from Ohio State University and then worked for the Procter and Gamble Company where he retired in 1996. He has been a member of the Coast Guard Auxiliary since 1981. He is now the Director of Recreational Boating Safety and has been since October 2001. She welcomed **Como. Warren McAdams**.

Como. Warren McAdams began by saying that the new Auxiliary leadership takes office on November 1, 2002. The new National Commodore will be Bill Edgerton, the new Chief of Staff is Gene Siebert. There will also be three Vice Commodores, Mary Larsen, Steve Reams, and Gail Ramsey.

With this new leadership, he said, the Council can expect a fresh look at new priorities. With new homeland defense issues, even more of the Auxiliary’s time is being spent supporting the

Coast Guard, performing safety patrols, but also backfilling in administrative duties. He stressed that the Auxiliary must continue to find ways to fulfill the traditional safety mission.

He said that the Auxiliary is in the process of recruiting new help in providing vessel safety checks. The United States Power Squadrons were in their third year providing over 20,000 examinations in this year, he said. They were also working with a number of States to provide examinations as well. In addition to the traditional missions, the Auxiliary has been establishing new programs with industry partners looking to promote education and safety checks.

He concluded by saying that the Auxiliary has been facing an abundance of new challenges and opportunities and that they need to continue to support the Coast Guard with its needs in recreational boating safety. He thanked the Council and asked to field questions.

Chairman Muldoon asked if there were any questions.

Russ Levin asked about new technology in radio programs.

Como. Warren McAdams said that they have been communicating about that program for a year. But right now, DSC is not a high priority for the recreational boater. He recognized that it is coming and that they are preparing for it.

Chairman Muldoon asked if there were any more questions. He then introduced Mr. Alvin Taylor, the President of the National Association of State Boating Law Administrators (NASBLA) and the Boating Law Administrator (BLA) from South Carolina.

Alvin Taylor thanked the Council and appreciated the opportunity to speak before the Council. He was appreciative that there were people out there whose number one priority was boating safety. NASBLA has been a long time supporter of boating safety.

He said he had been a member of the Department of Natural Resources for 25 years and had served in a variety of titles in that time. He said that he had been a previous boating accident investigator. He had also been involved in prosecuting cases and had let families know that a member of their family was a casualty in a boating accident. He knew that many members of NASBLA and NBSAC had come from similar backgrounds.

The bottom line in the reauthorization debate is, what would be a fair share according to NASBLA, he said. If one looks at the amount of funding since the 1980's, boating received a large share (80%) of the available money. However, since that time, boating safety has stayed at the same level while the fishery side has grown dramatically (up to 800%). Because of this, NASBLA has developed what they call the 50/50 share of the motorboat fuel tax revenue. This is an important point, he said, because they were not asking for 50% of fish and tackle revenue, but from fuel tax, something, which the recreational boating public pays for anyway.

He also believed that a 50% cut would be reasonable when looking at who is paying for it and who is getting the funds. He said that recreational boaters who pay fuel tax should expect to be able to take their families out onto the water and have a safe day. The time to fix the problem is now he said.

When the question comes to what to do with the money, he said that he has 52 on-the-water officers in the State of South Carolina. He said, that due to budget restraints, he would be unable

to keep all of these officers. He would use new funding to keep these officers on the water or buy gas to power the boats to provide a safer boating environment.

Although fatalities and injuries are going down, he asked the Council to imagine how much better things could be with better funding for boating safety. He wanted anything to keep him from having to knock on a door to tell another family member that they had lost a loved one.

He wanted to thank all those who were supportive of NASBLA in their goal in receiving the split. He listed those associations who were helpful in getting equal funding from Wallop Breaux. Two American League of Anglers and Boaters (ALAB) meetings ago they were trying to form a consensus, but NASBLA decided not to support it, as it did not fully meet their needs. He believed that everyone at ALAB would like a consensus but was unsure if it would ever happen. There is another proposal that would go to NASBLA, but he believed that it still would probably not go to consensus. He wanted to make it clear though that they were negotiating, but not backing away from their desire for 50/50.

He also said that when you look at TEA 21 funds, the money goes directly to the States. The money that goes to boating safety has to cover costs, meaning that some money goes to the Coast Guard, some goes to non-profit grants, some to administration. All of this money comes off the top and is deducted from the States funding. He believed that they are making progress in this area though.

He concluded by saying that he believed that one person could make a difference in this debate. In his home state, he said that the father of a boating victim took on the State Legislature and single handedly passed laws dramatically increasing the funding for boating safety education.

He then took the time to field questions from the audience.

Dave Marlow asked when the next ALAB meeting was.

Alvin Taylor answered that it had not been set yet.

Chairman Muldoon said that both groups had taken back proposals to decide whether or not to accept it, and once decided would plan on a next meeting.

Dave Marlow was concerned that there would be a final meeting without the input of the Council.

Chairman Muldoon stated that there had already been five final meetings.

Dave Marlow said that NBSAC members should get the word out for support before the final meeting.

Alvin Taylor thanked him for his support.

Chairman Muldoon said that the membership in ALAB is broad and that certain members should send representatives to help the cause.

Eric Shepard wanted more information on the Coast Guard scoring a portion of the money directed to the States.

Alvin Taylor answered that the scoring problem is not a new issue, but that the Commandant is behind them on the issue, and either way they will walk out without the scoring issue.

Karen Kelly said that she had heard that money was going into enforcement but wanted to know if more money would be diverted into education.

Alvin Taylor said that education is a high priority. The dropping casualty rate is due to three things he said, one of those being education, the others are enforcement and safer boats.

Chairman Muldoon said that if this is done the way they desired, that there would be an automatic increase in nonprofit boating safety grants, some for education.

Como. Belmore asked that when the bill gets sent to Congress, how could NBSAC show support on Capital Hill.

Alvin Taylor said that that falls back to NASBLA. He assured that NASBLA would inform those interested when it goes to Congress.

Chairman Muldoon suggested talking to Senator Breaux, and to make him aware of the situation. Boating fatalities were on the rise this year in his home State of Louisiana.

Linda Jo Moon asked how States would be able to put up a larger share of money to match federal funds.

Alvin Taylor said that it was currently dollar for dollar. However, NASBLA has a proposal, which would require 25 cents on the dollar, or 25/75. He said that there had been so much riding on getting the money that this point was often forgotten. Some States match more than Federal funds, but others cannot match due to budget restraints.

Chairman Muldoon said that they should not rely on that \$87 million set aside in the Boating Safety Account.

Eric Shepard said that that would be like them going after the fishermen's \$1.4 billion.

Alvin Taylor joked that that may be a good idea. He made the point that over the next three reauthorization processes, the combined Sport fish account sat at around \$1.5 billion whereas boating safety was around \$500 million, meaning that \$1 billion more was going to support fish.

Chairman Muldoon asked the Council if there were any more questions.

Karen Kelly asked what would happen if there was no consensus.

Alvin Taylor said that NASBLA would be ready to fight on Capital Hill.

Scott Swanby said he went to the White House with the Commandant and was wondering if they were more concerned with saving lives or saving fish.

Alvin Taylor says that he feels that most people in the process are, or have been, involved personally in promoting boating safety.

Joan Bondareff believed that the Coast Guard should support an increase in funding for boating safety.

Chairman Muldoon said that the scoring issue puts the Coast Guard in a terrible position, paying an enormous price if the States get what they want.

Fred Messmann said that a California Boating Law Administrator came from another agency, and when he was leaving his position, said that he would miss NASBLA's passion and camaraderie shared by its members. But even with all this passion, they have no money and are in a sense, a grassroots organization, and need help from industry to get the word out.

Alvin Taylor wanted to show a video, but added that there are changes being made. He also stated that the Coast Guard had been spending more time doing port security instead of safety checks, leaving this task up to the states who were understaffed to provide this. The entire program is being spread thin and new funding would help.

He then introduced the video that NASBLA put together to argue for a fair share of Wallop Breaux funding to be showed to the public.

[video]

Chairman Muldoon called for a recess for lunch.

LUNCH

Chairman Muldoon called the Council to order and introduced Captain David MacFarland, Director of Coast Survey for the National Oceanic and Atmospheric Administration (NOAA).

Captain MacFarland began with a brief history of the Coast Survey which was begun by President Thomas Jefferson in 1807. Since then, the task has been handed to NOAA, who is in charge of hydrographic surveys, nautical charts, reference systems, tides and currents and marine forecasts.

Today, NOAA's area of responsibility lies within the United State's exclusive economic zone, which is the largest in the world. However, according to Capt. MacFarland, NOAA's budget has been reduced by 50% since the mid 1980s, and their fleet cut from eleven vessels to only three. He stressed the importance as military, commercial, and recreational vessels depend on coast surveys to navigate terrain. Of these, he said, commercial shipping, which employs thirteen million people and provides 95% of the foreign trade, is especially dependant on the system. He then went on to say how vital commercial shipping is by using the example of the recent closure of 29 ports on the west coast at a loss of \$2 billion per day in lost revenue.

Capt. MacFarland said that commercial shipping will only grow larger, doubling in the next 20 years, and dependent on an infrastructure which is aging, undersized and crumbling. With 3,500 commercial shipping accidents every year, the task of the Coast Survey has become vital in planning safe routes for these large ships. Another factor that makes the system worse is the growing popularity of mega ships (he used an example of a Grand Princess ship superimposed behind the Capital building in Washington, D. C. nearly three times larger than the building). He said that mega ships will lead to larger problems and more difficulty navigating without the proper equipment.

Capt. MacFarland said that NOAA had begun to put electronic navigation charts on their website to download for free to those who need to use them. Some companies attempted to sell these maps on the internet with little success, but the free version has been downloaded thousands of times in the short time it has been available. The majority of those using the Electronic Navigation Chart (ENC) downloads are members of the public followed by businesses and then academics. Currently there had been 258,000 ENC downloads as of October.

Capt. MacFarland explained that NOAA maintains the National Spatial Reference System to judge boat and bridge heights as well as bridge construction.

He then went on to describe the new project for a survey of the United States coastlines. Currently they have prioritized areas with high levels of activity and are in the process of mapping and charting these areas. To speed this up, NOAA has acquired new boats. However, while the United States has the largest exclusive economic zone, NOAA still ranks 12th in hydrographic capability, but that number is rising according to Captain MacFarland. In doing these coast surveys, NOAA finds interesting things at the bottom of the ocean all the time. The Captain showed images of the Monitor, submarines and airplanes discovered at the bottom of the ocean while mapping.

New technology with airborne laser soundings called "LIDAR" will soon be made available to map areas important to recreational boaters, but too shallow to be a priority for NOAA's ship fleet. A water penetrating airborne laser mounted on an airplane can fly over water down to the 30' level. The laser beam bouncing back provides a detailed map of the ocean floor in shallower waters that recreational boaters are most concerned about.

He introduced the Coast Pilot as an older system to be used in conjunction with other systems, but he said that they were in the process of updating the old system, using recreational boaters and pilots to compile new information about conditions. NOAA is also in charge of the marine weather forecasts, which he was sure many of those who were boaters have used in the past. Captain MacFarland then introduced navigation managers for nine regions around the country, soon to include a tenth. He offered a list of phone numbers for these people to those who are interested in contacting one closest to their area. NOAA has also added new response teams for each district designed to respond to emergencies, such as hurricanes, where nautical charts may have been radically altered during the course of the storm and to change their charts accordingly. Another NOAA responsibility is to monitor water levels and tides and currents for the past 100 years. Where they used astronomical charts to determine tides, they now know that in certain areas, water levels come in and out with the wind causing a variety of water levels depending on the weather. NOAA is in the process of gathering thousands of older charts and updating them. He said that there was interesting information on the older maps for history buffs, and they will be adding more and more information as it is scanned.

Joan Bondareff asked for the website address for the charts.

Capt. MacFarland said, <http://chartmaker.ncd.noaa.gov>. Because NOAA has been unable to complete surveys in certain areas of interest to the recreational boater, they have been interested in receiving information changes in the older charts. The U. S. Power Squadrons have a partnership to adopt charts and go and modify the charts to any changes in conditions. Nearly 95% of observations made by them and the general public will end up making it onto new charts.

Finally, he said that NOAA depends on the recreational boater in learning how to improve, learning where the charts are wrong, what their priorities should be, and finally where surveys are

needed. He asked the Council for feedback on areas where NOAA needs improvement or the charts need changes. He offered anyone associated with a group to adopt a chart as well and to check depths in a given region.

He then said he would field questions from the Council and the audience.

Como. Belmore said that the Coast Guard Auxiliary has had a partnership with NOAA for nearly 30 years, and have been doing updates.

Capt. MacFarland said that they were very appreciative of the help and offered anyone else who wanted to help to contact him. He thanked the Council.

Chairman Muldoon then moved onto the Regulatory Review. He said that he would have the resolutions read as one motion, and if Council members have questions, they could answer them individually.

REGULATORY REVIEW SUBCOMMITTEE REPORT

Larry Innis thanked the Chairman. The Subcommittee met on Saturday, October 26, 2002 and discussed 33 CFR Part 183, subparts B, C, D, F, G, H, and L. Members present included Dave Marlow, Fred Messmann, Ted Woolley, Jim Manues, and Chairman Larry Innis. Mr. Innis stated that the Subcommittee recommends that NBSAC consider the following motions.

1. Requests the Coast Guard provide a definition of Wing in Ground Effect Craft, "WIG," in SEC. 183.3.
2. Recommends the Coast Guard change the wording at the end of the definition for *Motorwell* to read ... "mounting an outboard engine or motor" in Part 183.3, Definitions. In addition, the motion recommends that the Coast Guard include identical reference to "outboard engine or motor" where applicable in Part 183.
3. Requests the Coast Guard look at accident statistics and determine whether changes are necessary with regard to Parts 183.21, 183.31, 183.51, 183.101, 183.201, and 183.301, Applicability, for exceptions of canoes kayaks, sail, and inflatable vessels covered in this regulation and report results at the next meeting.
4. Recommends the Coast Guard delete "OR" and insert "NOT TO EXCEED" in all applicable places in Part 183.25, Display of Markings. The Subcommittee recommends this change because it is hard for boarding officers to weigh people on the water. It is easier to count heads. Also, this change would not mislead boat operators.
5. Recommends the Coast Guard look into and update, as necessary, average weight of 141/150 pounds and how it was determined for applicability in Subpart C, Safe Loading. The Subcommittee believes the average weight of Americans has increased since the last study used to determine these amounts.
6. Recommends the Coast Guard revise Part 183.35, Maximum Weight Capacity-Outboard Boats, to include current Coast Guard policy on weight capacity.
7. Recommends the Coast Guard adopt American Boat and Yacht Council (ABYC) recommendation to eliminate portable fuel tank weight requirements on boats with permanent fuel tanks in Part 183.41, Persons Capacity: Outboard Boats.
8. Recommends the Coast Guard study the elimination or revision of Table 4 with special consideration of adding *MAXIMUM ENGINE WEIGHT* on capacity plate in Part 183, Subpart C, Safe Loading.
9. Recommends the Coast Guard look at ABYC test results to determine if there is a need to develop a definition for a "flat bottom boat" in Part 183.53, Horsepower Capacity.

10. **Recommends the Coast Guard eliminate Boat Horsepower Capacity Test Course, Figure 183.53, as obsolete and develop an alternative method.**
11. **Recommends the Coast Guard investigate and address multi-hull craft in Part 183, Subparts F, G, and H.**
12. **Recommends the Coast Guard investigate eliminating certain exceptions in Part 183.101, Applicability.**
13. **Recommends the Coast Guard look into the way current flotation materials may be affected by oxygenated fuel in Part 183, Subpart F, Flotation Requirement for Inboard Boats, Inboard/Outdrive Boats and Airboats.**
14. **Recommends the Coast Guard include the term “manual” to clarify the title of Part 183, Subpart H, Flotation Requirements for Outboard Boats Rated for Engines of Two Horsepower or Less.**

Mr. Innis then asked for a motion to accept these resolutions.

Ted Woolley moved.

Bob David seconded the move.

Larry Innis called for the vote.

[motion passes unanimously]

Larry Innis thanked the Council.

Chairman Muldoon thanked Mr. Innis, he then introduced **Russ Levin** for a presentation on VHF service for recreational boaters.

Promulgation and Monitoring of Digital Selective Calling (DSC)

Russell Levin started by saying that the Coast Guard is behind in some of the technology that he will be presenting, but should have it in the near future. He explained that he would be describing what Global Maritime Distress and Safety System (GMDSS) is, why it was created, who does it apply to, coverage areas, implementation of the project, and MF/HF/VHF DSC response policy.

He explained that the nine purposes of GMDSS were to transmit ship to shore distress alerts by two independent means, to receive shore to ship distress alerts, transmitting and receiving ship to ship distress alerts, search and rescue coordinating communications, on scene communications, signals for locating, maritime safety information, general communications, and to transmit and receive bridge to bridge communications.

He then went on to describe GMDSS as a global maritime communications system which uses satellite terrestrial technology and shipboard radio systems. GMDSS contains rapid, automated distress alerting to shore-based rescue authorities and timely automated safety communications to boaters. He said that people should use GMDSS to enhance ship to shore communications for distress calls and to serve as an umbrella for future communications technology. GMDSS applies to SOLAS class vessels (commercial/fishing vessels 300 GT or larger), all passenger ships, and international ships of 12 or more passengers, but is voluntary for recreational vessels.

Mr. Levin explained that there were a variety of components in GMDSS including DSC, the primary component of GMDSS, NAVTEX, International Mobile Satellite Organization (INMARSAT), Simplex Teletype Over Radio (SITOR), Safety Net/EGC, and additional assets using satellite, voice broadcasts and Search And Rescue Radio Transponders (SART). Multiple components are used so that in case one is malfunctioning, another option is available.

Mr. Levin then began to describe DSC. DSC is used to initiate communications for distress, urgency, safety or routine. Using DSC a boat operator can call all ships, a group of ships, ships in a geographic area or an individual ship. Distress calls are one button activation to all ships alerting them of position, time, ship's identity and the nature of the distress. DSC eliminates SOLAS and the continuous monitor of voice distress channels. Mr. Levin also said that ships no longer monitor channels 21 and 82 and could eventually phase out channel 16.

Each vessel has its own identification number known as the Maritime Mobile Service Identity Number (MMSI) which acts as a 9-digit "caller ID". However, 30% of radios purchased are not equipped with MMSI, so the boat cannot be looked up in the database to determine the caller.

Mr. Levin said that the equipment required depended on where the vessel is located, which is called sea areas. Sea Area A1 lies between 0-20 nautical miles and is considered in range of VHF coastal stations with DSC, and it should be established by 2006. Sea Area A2 lies between 0-100 nautical miles, which is within range of MF DSC (Medium Frequency Digital Selective Calling) coastal locations. Sea Area A3 lies between latitude 70N and 70S and is within coverage of geostationary maritime satellites (INMARSAT) or HF DSC (High Frequency Digital Selective Calling). This area was established on February 1, 1999. Sea Area A4 lies between latitude 70N and 90N and 70S and 90S in the Polar Regions. This is serviced by HF DSC and polar orbiting satellites, as others are too far over the horizon to contact. This Sea Area was also established on February 1, 1999.

Mr. Levin then described implementation forums that have been going on for over 15 years. There was a GMDSS task force consisting of a U.S. multi-agency and industry advisory board, sponsored by the Coast Guard. Mr. Levin also said that there was a DSC steering committee within the Coast Guard, including LANTAREA (Atlantic), PACAREA (Pacific), TISCOM (Virginia), and G-OCC.

He reiterated that Sea Area A-3 and A-4 were established in 1999 and that Sea area A-1 will be completed by 2006, and that the current area of focus was on Sea Area A-2. There are over three hundred towers across the coastline of the United States, and there are still gaps. There has been an effort to fill these gaps on rivers and on the coast.

Mr. Levin then explained the DSC response policy as used by the Coast Guard. In terms of Coast Guard requirements, on Communications Area Master Stations (CAMS), they require GMDSS frequencies. Groups will be concerned with the VHF signals. Cutters will also have MF, VHF ability. On an HF/MF response the Coast Guard must acknowledge within 2.75 minutes by pushing a button. They listen to voice frequency for ten minutes and would hopefully contact the person on the vessel. If this does not happen, the Coast Guard will attempt to call the vessel with a voice transmitter. In a VHF response, until completion of NDRSMP (Rescue 21), groups may receive VHF alerts via a third party including cutters. Upon notification, the Coast Guard will obtain information and attempt to establish communication on channel 16. If this would not work, the Coast Guard would send out an information bulletin to all boaters in the area. If a cutter receives a VHF signal, the commanding officer will acknowledge the call within five

minutes and then notify the Rescue Coordination Center and attempt to open communication via channel 16.

He then made several recommendations to the average recreational boater. He said that they should learn how to use this equipment. They should also apply for a valid MMSI and connect their DSC to a GPS. They should connect the radio to the battery, so in case of a power failure the radio would still work. Finally, he recommended that boaters buy an EPIRB. He also recommended them to keep their radio on and maintain a radio watch and learn to assist in case of emergency.

He then fielded questions from the Council and the audience.

Ted Woolley asked how the system worked in western states.

Russ Levin replied that one of the areas that they are working on is Western Rivers and working on filling gaps in these areas.

Ray Tsuneyoshi asked if they would be using any of this technology for the Lewis and Clark Commemoration Events.

Russ Levin replied that he did not know specifics, but was sure that it would help.

Chairman Muldoon asked if there were any more questions. He then asked if any consideration was given to utilize the low flying satellite network that went bankrupt.

Russ Levin said that it was good technology that worked, but it was old technology. The new technology is so much more advanced than the old system.

Chairman Muldoon said that when they testified on Capital Hill, there was a Congresswoman who was interested in a telephone used to contact the Coast Guard.

Russ Levin said that in the case of large vessels that two way radios would not suffice in case of an emergency where there are forty or fifty lifeboats.

Joan Bondareff wanted the Coast Guard to put out a 2-page brochure to notify boaters of the upcoming changes before 2006.

Russ Levin thought it was a good idea, and wanted a video from the manufacturers, but sometimes the information is difficult to understand. He suggested that they may use a simple checklist as used in airlines, but he stated that the most important thing is that the boater knows how to use the system.

Chairman Muldoon thanked Russ Levin. The Chairman then called for a break.

Jeff Hoedt notified the Council that Margot Brown would not be attending to make her presentation as her husband had become ill.

Chairman Muldoon said that because of his closeness with NAVSAC, Eric Shepard would be able to provide the presentation in her place.

Eric Shepard let the Council know that this was not a NAVSAC report and should not be taken as such. He said that he was simply relaying what he had heard in the previous NAVSAC meeting that he had attended on their discussion on barge lighting.

He began with a brief history of barge lighting in 1994 when NBSAC requested that NAVSAC review whether their current lighting requirements were adequate. NAVSAC is primarily commercial oriented while NBSAC was recreational boating oriented. NBSAC most recently brought up the potential of accidents on long tows or long barges. Tows on certain rivers can run 1,000 to 1,200 feet long. Even with elevated bridges they cannot see everything in front of them. They do not stop, they cannot steer, and they have a narrow channel in which they operate.

The recreational boating aspect of this issue, he said, was the nighttime issue rather than the daytime. These tows are lighted at the bow and the stern but are not lighted in the middle. This represents a hazard that someone heading into one of these channels could potentially not see the side of the barge as they entered the channel. Mr. Shepard explained that NBSAC has addressed this with NAVSAC and their commercial counterparts. He spoke with someone involved with the towboat operators, who responded negatively to the thought of needing lights on the side of the tows. He also said that they had considered electro-reflective tape on the sides. However when a light was shone on these, an extremely bright light shone back into the operator's eyes, rendering him unable to see. The tape was lowered to the side of the barge, but would only last a matter of days before it wore off from docking.

One company did have two significant accidents involving tows, and they decided to experiment by hanging lights on the side of the tow. The Coast Guard responded that red or green lights were not allowed but that they could hang yellow or white lights which would be ok. This company designed battery operated self-contained light panels that they now use. This company felt that it was a very appropriate action and it has worked as they had not had any accidents since.

He then said that the towboat operators have rightly brought up that there have not been a lot of collisions. When the number of towboats on rivers is compared with the number of recreational boaters, the accident number is not significant and the cost of such change would not warrant such an expensive action.

From there, he said that the focus changed to educating recreational boaters. NAVSAC has responded to NBSAC by stating that education will save far more boaters than tow operator actions would. Mr. Shepard then brought up the issue of boaters running into the cable towing the barge, and there is no way to adequately light these lines. NAVSAC did agree to come to a resolution that all tows and tugs conform to the international lighting rules. Current rules in Western Rivers are nowhere near adequate. Mr. Shepard said that the ball is now back in NBSAC's court; the towboats do not want to hang lights on the barge and sees it as unnecessary. He asked if there were any questions from the Council or the audience.

Chairman Muldoon said that it was a good decision to create a liaison to go to NAVSAC because they are two groups who need to communicate more.

Eric Shepard said that NAVSAC was interested in having another joint meeting with NBSAC as they had done four or five years ago. They suggested the next fall to have a joint meeting.

Chairman Muldoon said that they may get an opportunity to do that because it made sense. He then introduced Carl Perry to discuss regulations regarding propeller strikes.

DEVELOPMENT AND DISCUSSION OF REGULATIONS TO PREVENT PROPELLER STRIKE INJURIES

Carl Perry thanked the Chairman and the members of the Council. He started off by saying that they prepared and published a proposed rulemaking in December of 2001. The rule would require owners to install propeller guards on non-planing houseboats, or install a jet-drive system, or install three safety measures of an emergency cut off switch, a clear vision aft, and an interlock for swim ladders. The initial comment period closed on March 11, 2002 and was extended to May 11, 2002. Mr. Perry said that 175 comments were received as of May 20, 2002. The Coast Guard broke the comments into several categories with recreational boaters, boating industry members and people with general boating interests providing the majority of the comments. Of these, 79 supported the rule as published, 52 supported the rule with changes, and 44 opposed.

Of those who supported the rule, according to Mr. Perry, most came from victims, relatives, accident witnesses or healthcare providers. Of those who supported the rule with changes, several supported the rule but wanted to see the phase-in period shortened and others wanted to see pontoon boats or all boats included in this legislation. Most of those opposing the rule were from the industry. Mr. Perry said that several comments referred to a need for clearer definitions of such terms as “houseboat”, “accommodation spaces”, “clear vision aft”, and “propeller guard”.

Other comments referred to a lack of a proof of substantial risk, and cost benefit analysis. Mr. Perry then explained the rule of proof of substantial risk (46 U.S.C. Sec 4302) that the Coast Guard must prove substantial risk before mandating major alterations to existing vessels. Those who supported this said that BARD does not capture all propeller strike injuries, as some accidents were not found in the system. Those opposed say that the USCG statistics do not support the need for a rule and that they actually show a decline in deaths and injuries. The NTSB, houseboat owners and law enforcement agencies said they saw no significant risk.

Mr. Perry then went on to explain both sides’ views of the cost analysis aspect of this issue. Those who were in support of the rule claimed that the value of one life is incalculable, the cost of safety measures is minimal, that insurance premiums would go down, and that the victim’s costs are underestimated. Those opposed to the rule said that the cost for maintenance and repair are ignored, that increased fuel consumption was ignored and that the engine manufacturer’s warranty may be voided.

He then described the support and opposition in regards to the benefits of the proposed rule. Those in support said that safety measures had been proven through testing and that a guard was effective without other actions. Those opposed said that there was no proof that the interventions work, they may pose new hazards for swimmers and that there were no standards for safety measures. Those opposed also suggested that the Coast Guard emphasize boater education combined with warning labels and strengthened BUI regulations would reduce the number of propeller strikes. Others suggested changes to shorten the phase in period, to mandate the propeller guard and eliminate alternatives, require environmental justification for choosing alternatives over guards, and to include pontoons or all boats in this legislation.

Mr. Perry concluded by giving a summary of the public comments. Several comments indicated a lack of confidence in the accident data, another believed that the data analysis was flawed, another believed that the statistics did not reflect the true numbers. Others were concerned with the effectiveness of a propeller guard without a standard of what would meet this requirement. He then asked the Council what they would recommend by discussing the comments, discussing

the April 2001 recommendations and then to make recommendations to the Coast Guard. The Coast Guard would consider the NBSAC recommendations and public comments before deciding on the next agency action. He then asked if there were any questions and invited NBSAC to discuss the presentation.

Chairman Muldoon asked if everyone had the NBSAC recommendations from April 2001. He said that it was not a subject new to the Council and they had now seen the views of other people.

COPY OF NBSAC RECCOMENDATIONS, APRIL 2001

The National Boating Safety Advisory Council, meeting on April 24, 2001 in Cleveland, Ohio does hereby recommend and request that the U.S. Coast Guard institute rulemaking addressing the following requirements to prevent and minimize the occurrence of boat propeller strike accidents:

1. ***ALL - All propeller driven vessels 12 feet and longer with propellers aft of the transom shall be required to display propeller warning labels of appropriate size and content at appropriate location(s), and operators of these vessels are required to employ an emergency shut off switch where installed.***

2. ***NEW - New planing vessels 12 - 26 feet with propellers aft of the transom shall also be required to select and install at least one of the following original equipment manufacturer supplied propeller injury avoidance measures:***

- ***Operator emergency shut off switch***
- ***Boarding ladder ignition interruption switch***
- ***Jet propulsion system***
- ***Propeller guard - any design***

3. ***NEW - New non-planing vessels 12 feet and longer with propellers aft of the transom shall also be required to select and install one of the following original equipment manufacturer supplied propeller injury avoidance measures:***

- ***Operator emergency shut off switch***
- ***Boarding ladder ignition interruption switch***
- ***Jet propulsion system***
- ***Propeller guard - any design***

4. ***EXISTING - All non-planing rental boats with propellers aft of the transom shall be required to be equipped with either a jet propulsion system or a propeller guard OR all of the following:***

- ***Operator emergency shut off switch with mandatory use***
- ***Boarding ladder ignition interruption switch***

Aft visibility measures where the operator's view of the transom above the propeller(s) is blocked.

Dave Marlow thought that it was imperative that the Council looks at new data received from Bruce Schmidt the day before in attempting to align the April 2001 resolution properly towards positive measures. Having said that, he said that he had gone through the April resolution and provided some added input and had made some changes. He asked if he could entertain the Council with these changes.

Chairman Muldoon asked him to do so.

Dave Marlow said that Carl had made a good point in bringing up the proof of substantial risk before mandating changes. In April 2001 he said that the proposal stated "all" propeller driven vessels, and he did not understand what that meant. He wondered if it should say "all new" instead of "all". He claimed that a large majority of propeller strikes come from an ejection

scenario where the boat continues to run. By adding the term “new” they are equipping new boats with proper warning labels, and mandating a wear requirement of a shut-off switch. He then moved onto number two.

Chairman Muldoon asked if he wanted to address these as a whole or individually.

Carl Perry asked to address the Council. He said that “all” meant all existing vessels, in terms of labels and of using the shut off switch where it is installed. Therefore, if the manufacturer does not put warning labels on the boat the owner would be required to do so.

Dave Marlow said that he had no problem with not including the word “new” but did not want regulatory action to be held up because of his action. He would leave it as is if they have an emergency shut off switch that the operator would be required to use it and a way to get warning labels out on the vessels. However, he did not want this to stop the regulation from moving forward.

Carl Perry said that he did not believe that this would prevent the rule from moving forward. The rule was designed to get the owner to put adequate warning labels on their vessels.

Chairman Muldoon asked how they planned on policing this.

Carl Perry said that they were working on it, and that it would be a significant rulemaking as it would cost over \$100 million dollars. If this rule exceeds this amount, then the Department of Transportation and the Office of Management and Budget would become intimately involved in reviewing the rule and will add about a year to the rulemaking. It was held back because they had prepared a work plan on houseboats. The full recommendation was beyond what they had prepared for, and rather they delay 6 months or a year, they decided to move forward with this. He did mention that they were considering recommendations two and three as manufacturer requirements but held back until they could see how the proposed rule worked. The third project would cover all of number four, all of number one, pontoon boats and everything else which were not covered.

Chairman Muldoon asked if it divided the costs.

Carl Perry said that it did not, but allowed some smaller projects to pass through, and would allow the one that cannot avoid it to capture everything they could not do in the proposed rule.

Chairman Muldoon said that was in case you lose it in the process.

Dave Marlow said that he believed that they could delete number one and roll warning labels into the preambles of two, three and four, and add the mandatory usage of shut off switches in two and three.

Chairman Muldoon said that that was a serious concern. He said they needed to make sure that they didn't stumble into the trap of throwing the baby out with the bathwater.

Carl Perry said that the issue of labels was not about costs of a few dollars per vessel, but they would need to determine the difference of an adequate sign and an inadequate sign. He said that he had recently attended a boat show and by the time one was close enough to read the warning label they would have been struck by the prop.

Dave Marlow proposed that the Coast Guard and industry work together to determine what an adequate label would be. He said that the issue of liability would push the manufacturers into complying. He believed that it would be short sighted of manufacturers to not include labels.

Carl Perry said that was part of the assumption. A label can be put on the gates or wherever people enter and leave the deck of the boat warning of the propeller.

Dave Marlow did not want to get distracted.

Chairman Muldoon asked the Council and audience for comments.

Eric Shepard was concerned over the costs for stickers for 17 million vessels. He supposed that \$56 million dollars would be used to modify existing non-planing rental boats, and was concerned with the \$100 million limit.

Carl Perry believed the average price of the modification was around \$300-400 up to \$600-\$800 for another. He also admitted that they had no way of determining how many rental vessels there were.

Eric Shepard doubted that there were 66,000 rental, non-planing vessels which would be subject to this rule.

Carl Perry said that one of the big challenges was that they did not have the data to back up their claims.

Chairman Muldoon asked that in the absence of data, what would become the determinate?

Carl Perry answered money; if they did not have substantial risk, it's too expensive to do it.

Chairman Muldoon asked for more comments.

Como. Belmore said that companies did not mind making stickers if they could put their name on the sticker. She also said that the Auxiliary was always willing to give out information.

Chairman Muldoon said that his concern was the people making the decision with the lack of existing data. He was concerned that the entire project will be killed if they fail to make their point.

Carl Perry said that the label issue was not a big money issue, it is for developing an appropriate standard for appropriate labeling. They broke the regulation into four pieces to avoid it all getting delayed at the same time.

Joan Bondareff said that two things occurred to her in calculating a \$100 million cost. She said that if you can offset the manufacturing costs with the amount of lives saved from reducing health care costs, you lower the \$100 million figure. Secondly, she was concerned that the NTSB and law enforcement stated that there was not sufficient evidence for regulation. She wanted to understand these comments better.

Carl Perry was unsure if he understood the basis for the comment, but that that was what the comment said.

Chairman Muldoon asked where the burden fell in that case.

Carl Perry answered that it was on the Coast Guard. He said that anybody can claim anything they want and the Coast Guard will have to come up with facts and data to disprove it. A major challenge to the rule was the objection from the Small Business Administration.

Chairman Muldoon asked for further comments from the Council.

Dave Marlow said that he would withdraw the suggestion of the “new” from #1 based on recent statements. He also wanted to look at why they stopped it at 26’ and did not do so anywhere else in the regulation, which was written as 12’ and longer.

Carl Perry said that he did not know the answer to that, but that it was a recommendation that was made.

Chairman Muldoon asked who wrote it.

Karen Kelly was head of the committee, but did not recall why it was cut off at 26’.

Carl Perry said the only thing he could think of was a quick study in 1998 and found that the biggest striker was open motorboats 16’-26’. He said that someone had brought up the fact that someone said that boats smaller than 16’ could have propellers and go fast so the number was reduced to 12’. He said that they could search BARD for vessels 16’-26’ long but searching for 12’-16’ would make the process harder and longer.

Chairman Muldoon suggested that they change the language in all four to read 12’ and longer.

Karen Kelly was concerned with Carl’s comments that this would make it harder to happen because there was no data.

Chairman Muldoon said that if they went from 16’-26’ then they would already have the data available in BARD.

Karen Kelly said that if that would be an added hurdle, then they should relinquish 12’.

Chairman Muldoon agreed.

Eric Shepard argued that 12’ should not be relinquished, due to the sheer number of these types of boats.

Karen Kelly asked Carl for his opinion.

Carl Perry said that there was a large number between 16’-26’ and it fell off over 26’. He said that he was not claiming that there was not a problem under 16’, but he said that they could leave it the same way and that they would count it the same way.

Fred Messmann said that he believed that BARD captured length.

Carl Perry said that that was captured in the accident data, but not in the registered boat data. With new requirements, it is not a major issue because you can get a feel through manufacturers’ statements.

Chairman Muldoon asked Mr. Marlow for his resolution.

Dave Marlow thanked them for the explanation, and he decided to leave 12' in the recommendation. He said the next item he would desire to be changed in part two was to remove the option of propeller guard, any design, for planing vessels. The reason for this was that there were a variety of statements made as to where favorable results existed in the use of some types of propeller guards. He said that a study was referred to from the Marine Technology Society, used as a state of the art study which stated that planing vessels and propeller guards did not mix. He did not believe that it should be made as a requirement. He asked that they remove the mandate for propeller guards from planing vessels at that time.

Chairman Muldoon explained that he was letting Mr. Marlow proceed, and then they would go back after he is done and take them separately.

Dave Marlow said that, so far, this was the only change made to the 2001 recommendations.

Chairman Muldoon asked for comments.

Fred Messmann said that by doing that, it only left three options for planing vessels. He asked if he was suggesting that they do not put a propeller guard on at all?

Dave Marlow said that this was correct.

Carl Perry asked whether the manufacturer should not have an option to put one on?

Dave Marlow answered no, but that it should not be a part of the resolution. If they wanted to put a propeller guard on, that would be their business.

Marian De Cruz offered that since technology is evolving, to not leave out technology that would be available in the future. She mentioned a new type of technology which was not a guard, but one that senses heat. However, as this new type of technology develops, it could be applied to recreational boats. She said that perhaps they could say, propeller guards, or another type of technology designed to avoid strikes.

Eric Shepard said that they could leave propeller guard in, knowing that current technology is poor, but that it is possible for future technology that is appropriate, and would satisfy this section. To leave it out would mean that they would have to go in and change it again in the future.

Chairman Muldoon said that it fixes the cost item and how it mixes into that.

Carl Perry asked why they would deny the opportunity for the manufacturer if he would like to put in a propeller guard.

Dave Marlow said that this was not the argument, but all of these changes were being made to add positive movement into the process. He was concerned, not that they remove the technology, but that it was going to stop this rule from progressing. He said that the only data available was from the before-mentioned report and that the only one approved was the full cage type propeller guard. He would prefer that the arguments were data based, and not made on wishful thinking.

Carl Perry said that if the Council agrees to take it out, that they would have several more NBSAC meetings before the proposal on any manufacturing rule would be made. Even if it came out today, down the road if the Council decided that the technology had changed, that could be done.

Dick Snyder said he had studied the propeller guard issue for twenty-five years, and he knew of no emerging technology as pure “propeller guards”. He said that there was new infrared technology, but it has nothing to do with prop guards.

Fernando Garcia wanted clarification about the logic in listing a jet propulsion system.

Carl Perry said that it states “propeller aft of the transom”, meaning that if it is under the vessel it is not as much of a danger.

Fernando Garcia wondered how the transition to a jet propulsion system occurred.

Carl Perry said that to install the jet propulsion system would cost \$1,500-\$2,500 to install on a stern drive.

Chairman Muldoon wanted to clarify if they were still speaking of new boats.

Dave Marlow answered yes.

Fernando Garcia wondered who they believed would make the change.

Carl Perry said that he does not envision anyone doing so.

Fernando Garcia asked him if he were the operator.

Carl Perry said that if he were the owner he would not pay that amount of money to modify into a jet pump. However, he said that manufacturers are beginning to build more jet propulsion systems instead of propeller driven systems.

Fernando Garcia had questions about how to install a jet drive on a boat designed for a propeller driven system. He was concerned about changing the basic design of the boat so dramatically.

Eric Shepard wondered why someone would put a jet pump in the boat.

Chairman Muldoon said that he saw this as an opportunity for manufacturers to design jet driven systems.

Eric Shepard said that it already is an option for them to design these types of boats.

Karen Kelly asked that if there was a propeller, did they have the option of a prop guard, an ignition switch or a ladder cut off switch?

Eric Shepard said that if it were a jet pump, these three options were a moot point. He still believed that there should be an operator emergency shut off switch requirement.

Ray Tsuneyoshi said that if someone were to buy a jet propulsion system, they would have issues of depth of water. He said that there were problems in using a jet system in blue water usage that you would not want to have.

Karen Kelly asked if they could strike this.

Chairman Muldoon reiterated that they were going to go over all of them and then go back for discussion one at a time. He asked Mr. Marlow if there were any more changes.

Dave Marlow said yes.

Fernando Garcia suggested they use the term “water jet” instead of “jet” which could also be used for aircraft.

Dave Marlow was penciling in that either strike or add with a water jet propulsion system.

Chairman Muldoon suggested that when he was done to propose them as he wanted and then the Council would take them apart.

Dave Marlow moved on to number three. Based on the Marine Technology study, he wanted to add “full cage type” instead of “any type” and then added “appropriately sized to stop human appendages from coming into contact with the propeller.” He had studied search and rescue reports from other countries who had determined this size to be 5/8”.

Finally, on number four he would add the same language, where it reads “water jet propulsion systems or a full cage type propeller guard appropriately sized to stop human appendages from coming into contact with the propeller”. He also removed the term “switch” at the end of boarding ladder ignition interruption and replaced it with “device”. He also added “which may include posting a lookout” after “Aft visibility measures where the operator’s view of the transom above the propeller is blocked”.

Chairman Muldoon asked Mr. Marlow to return to the top and propose them one at a time.

Dave Marlow stressed that all of these proposals were designed to move this positively forward. He made no changes to number one.

Chairman Muldoon asked if anyone wanted anything changed on number one.

Dave Marlow replied that there were no changes to be made to number one.

Chairman Muldoon asked if anyone had any comments about number one.

Todd Lemke questioned whose burden it was to obtain labels.

Chairman Muldoon said that that issue would be resolved through the rulemaking process.

Carl Perry said that it applied to the owner of the vessel.

Chairman Muldoon asked Mr. Marlow for his comments on number two.

Dave Marlow said that on number two, third bullet, moved to

Change jet propulsion system to “designed with a water jet propulsion system”, and he would remove the fourth bullet for planing vessels.

Eric Shepard seconded the motion.

Chairman Muldoon asked for further comment, hearing none he called for a vote.

[motion passed unanimously]

Dave Marlow moved to

Remove the term “any design”, and add “full cage type appropriately sized to stop human appendages from coming in contact with the propeller.”

Ray Tsuneyoshi seconded the motion.

Chairman Muldoon asked for further comment.

Eric Shepard wanted to know if there was a change to jet propulsion to water jet propulsion.

Dave Marlow thanked him, and accepted that the same change made to number two should be made for number three.

Chairman Muldoon asked for further comments from the Council and the audience, and called for a vote.

[The motion passed unanimously]

Dave Marlow moved to

Add the term “full cage type” in front of the term “propeller guard” in the preamble of number four, add “appropriately sized to stop human appendages from coming into contact with the propeller” after the word “guard” in the preamble of number four. He would put the word “water” before “jet” in the preamble. He would replace the term “switch” with “device” on the second bullet in number four. He would add at the end of number three, “which may include posting a lookout”.

Karen Kelly seconded the motion.

Chairman Muldoon asked for further comments from the Council and then from the audience.

Mark Suttie said there may be cases where a houseboat does not have a boarding ladder or a gate. He asked that in the absence of a boarding ladder or gate, does that portion of the regulation not apply.

Eric Shepard said that in that case it would not apply.

Chairman Muldoon said he thought the question would be whether they would be forced to put one in.

Eric Shepard said that without a ladder or gate you cannot put a device in.

Chairman Muldoon said that was a good point, that you do not want the industry to take those things off by leaving that loophole.

Ted Woolley had a question of one of three or one of four options. Then at the bottom, they required all of them. He said that houseboats were not the bad guys according to statistics, but planing boats were. He also brought up law enforcement would be unable to see if there was a propeller guard or not. It would be difficult to enforce.

Ray Tsuneyoshi agreed with Mr. Woolley.

Carl Perry clarified that number four was not about houseboats, but it was about rental boats. And he said that it was to protect those who were not as used to operating a boat.

Eric Shepard said that the rule was designed to protect the less experienced. He suggested that they provide any two of the four instead of all four.

Chairman Muldoon asked if he was offering that as an amendment.

Eric Shepard replied that he was.

Dave Marlow asked him to explain.

Eric Shepard said that it meant that the vessel could have a combination of any of these two, but that the rental vessels protect those who are not as experienced.

Dave Marlow asked if he should add the prop guard requirement as another bullet.

Eric Shepard agreed.

Dave Marlow reread number four as all non planing rental boats with propellers aft of the transom shall be required to be equipped with either a water jet propulsion system or any two of the following: with all three options as well as the propeller guard.

Chairman Muldoon asked for comments.

Ray Tsuneyoshi wanted to go back to Mr. Woolley's issue of enforcement.

Chairman Muldoon asked if they licensed rental boats.

Ray Tsuneyoshi replied that they do not. He also wanted to know how a boating officer would go down and check on the propeller guard on such a vessel.

Carl Perry asked if anyone remembered [the comment made in the Subcommittee meeting] on Sunday that they lifted the propeller to show the renter the propeller.

Ted Woolley commented that that was not the style on all houseboats. He said that most have a swim platform blocking the view of the propeller. On these types you would not be able to see the guard unless you were in the water.

Chairman Muldoon asked for any more comments from the Council.

Joan Bondareff said that the Council should be on record that the Coast Guard should calculate the costs in implementing regulations, that they take into account the risk to the public from leaving propellers unprotected. Otherwise, she does not believe that the Coast Guard could go ahead with this rulemaking.

Chairman Muldoon asked if Mr. Marlow would accept that.

Dave Marlow said that these dealt with existing vessels, and that some of the costs may be offset by having a choice on how to fix the measure.

Chairman Muldoon asked Mr. Marlow to clarify the enforcement issue.

Dave Marlow understood, but did not have a good suggestion for that issue.

Karen Kelly said that the purpose of the rule was to save lives, but she did not believe that you could enforce it. As a group, they needed to accept the fact that they can't police it. She believed that they needed to take a leap in solving this problem, but maybe some lives will be saved which would be worthwhile.

Bill Engfer agreed that it would be difficult to enforce from a law enforcement standard, but from a liability standpoint, manufacturers will comply to protect themselves.

Carl Perry said that he had seen security procedures at Coast Guard Headquarters where security has a mirror on the end of a stick to see under the car. He suggested that perhaps they could create a device that could look under the water to check if the boat is in compliance.

Chairman Muldoon said that he knew of nothing in the United States that would force compliance as much as liability.

Como. Belmore said that she had a boat with a swim platform, and she can see the propeller from the dock. She said that she was not sure why another boat could not see into the water.

Carl Perry said that he had attended the Annapolis Boat show, and he had seen several hundred boats, and there were many where he could not see a propeller in the murky water.

Eric Shepard said that three of these are very easy to do, but that the propeller guard was difficult. While he would like to see propeller guards, if the three others are installed it is more safety than exists already.

Marian De Cruz said that only a prop guard would have saved the life of her son. None of the other items mentioned would have done so. She also thought that the murky water issue was the exact reason why a prop guard was needed. She said that since the water was so murky, her son never had any idea of what was driving the boat, and that is why the public needs something guarding it to protect lives. She also said that the Utah Boating Law Administrator should have a relationship with Aramac Industries and would be able to have some pressure in forcing compliance in the new rule. She said that after the study, what they found was applicable and available and doable for houseboats.

Eric Shepard said that he would withdraw his original amendment for 2 of 4 and then change it to 3 of the 4.

Chairman Muldoon asked if he was providing that as an amendment to Mr. Marlow.

Dave Marlow asked if he was changing to what he had originally proposed.

Eric Shepard said either that, or two of the bullets.

Dave Marlow said that they would state, “**all non-planing rental boats with propellers aft of the transom shall be required to be equipped with either a water jet propulsion system or a full cage sized propeller guard appropriately sized to stop human appendages from coming into contact with the propeller. Or all of the following: operator emergency shut off switch with mandatory use, boarding ladder interruption device, and provide aft visibility measures where the operator’s view of the transom above the propeller is blocked which may include posting a lookout.**”

He did not see how this was a change from the original proposal.

Eric Shepard withdrew his amendment.

Chairman Muldoon asked for confirmation that he withdrew his amendment.

Eric Shepard confirmed that he was withdrawing his amendment.

Ted Woolley disagreed with Mrs. De Cruz that nothing would have saved her son except a propeller guard. He believed that a lookout may have been able to notify the operator to not start the engine. He said that there were different options besides the prop guard which could have prevented her son’s death.

Marian De Cruz said that it was not a regulation, and that it wasn’t known to them. The only one who got any sort of education was the operator, and there were 22 additional people on the boat. She said he didn’t die because he jumped, she said that he died because he was caught by the propeller.

Ted Woolley said that there were other ways that could have saved her son.

Chairman Muldoon brought the issue to a close and asked Mr. Marlow to read the measure.

Dave Marlow thought that everyone’s ideas would have been met. The owner had the option of installing a water jet, or prop guard, or the other three options. In her case, if they had been employed, they may have saved her son. He read the measure as:

1. ALL - All propeller driven vessels 12 feet and longer with propellers aft of the transom shall be required to display propeller warning labels of appropriate size and content at appropriate location(s), and operators of these vessels are required to employ an emergency shut off switch where installed.

2. NEW - New planing vessels 12 - 26 feet with propellers aft of the transom shall also be required to select and install at least one of the following original equipment manufacturer supplied propeller injury avoidance measures:

- Operator emergency shut off switch
- Boarding ladder ignition interruption switch
- Water jet propulsion system
- ~~Propeller guard—any design~~

3. NEW - New non planing vessels 12 feet and longer with propellers aft of the transom shall also be required to select and install one of the following original equipment manufacturer supplied propeller injury avoidance measures:

- Operator emergency shut off switch
- Boarding ladder ignition interruption switch
- Water jet propulsion system
- Full cage type propeller guard appropriately sized to stop human appendages from coming into contact with the propeller- any design

4. EXISTING - All non-planing rental boats with propellers aft of the transom shall be required to be equipped with either a water jet propulsion system or a full cage type propeller guard appropriately sized to stop human appendages from coming into contact with the propeller or all of the following:

- Operator emergency shut off switch with mandatory use
- Boarding ladder ignition interruption ~~switch~~ device
- Aft visibility measures where the operator's view of the transom above the propeller(s) is blocked, which may include posting a lookout.

Chairman Muldoon called for a vote

[vote passes, Ray Tsuneyoshi and Ted Woolley vote no]

Chairman Muldoon then moved on to Carl's presentation about mandatory servicing of inflatable life rafts.

MANDATORY SERVICING OF INFLATABLE LIFE RAFTS FOR RECREATIONAL VESSELS

Carl Perry began by summarizing NBSAC's recommendation that owners of life rafts be required to service them according to the manufacturer's requirements. The Coast Guard published a request for comments on November 9, 2001, which closed on March 11, 2002. They received 45 comments. Of these comments, 8 supported, 7 suggested alternatives, and 31 opposed.

He summarized that the Coast Guard wanted to ask ten questions about the topic including:

1. What data or studies are available on procedures and frequency?
2. What would economic and other impacts be on owners?
3. Would requiring manufacturers' schedules place a burden on owners? Why or why not?
4. Would the cost discourage voluntary carrying of life rafts? What would be the effect on boater safety?
5. How many small entities are engaged in carriage of life rafts?
6. Which companies currently manufacture inflatable life rafts for recreational vessels?
7. At what intervals should inflatable life rafts be serviced?
8. Which facilities are currently approved for servicing?
9. Are there issues specific to foreign manufactured inflatable life rafts to consider?
10. What other information should we consider?

In the first question regarding available studies, Mr. Perry stated that the comments suggested that the best data would be from servicing stations. They also wanted to know what data NBSAC relied on to make this decision. Another said that France had already required servicing and may have data available. Also, statistics on United States Coast Guard-approved commercial life rafts would apply to recreational life rafts.

On the second issue of the economic costs to the owners, Mr. Perry read the comments saying that the inconvenience and costs would be huge for the owners. Others said that the requirement would be a small financial commitment. A comment from one said that enforcement would be difficult. Some comments stated that the servicing would cost between \$250 and \$800.

Mr. Perry then moved on to question three regarding whether requiring manufacturers' schedules would place a burden on owners. Some said that most manufacturers have a facility near every major port with pickup and delivery service. Some said that there would be no burden saying that there was no requirement to even carry a life raft and that it was expensive and difficult. Several others stated that there were no servicing facilities near their area.

Question four asked whether the cost would discourage voluntary carrying of life rafts. One owner stated he would not service his raft, and if inspected, he would throw it over the other side of the boat. Many comments said that this would prompt boaters to not carry life rafts. Others said that removing life rafts to avoid costs would outweigh the benefits the rule hoped to achieve. Still more offered that the cost of servicing a raft is only 15% of the purchase cost.

The next question Mr. Perry explained was how many small entities were engaged in the carriage of life rafts. One commenter stated that all U.S. manufacturers would be adversely affected. Another stated that most have less than 500 employees and service stations less than 20, importers would have even less. Some commenters argued that the proposal could greatly reduce or eliminate these businesses. Mr. Perry showed a list of the manufacturers of these vessels to answer the next question.

On the question of how often a life raft should be serviced, Mr. Perry stated that comments said that the interval should be at the manufacturer's recommended schedule only. Others stated annually or from two to three and up to five years. Another stated that the USCG had set the commercial fishery service requirement at 2 years at initial packaging and then annually.

The next question dealt with facilities that currently were approved for servicing. One stated that the United States Marine Safety Association (USMSA) listed authorized servicing facilities on its web site at www.usmsa.org. Another stated that some manufacturers require the life raft be returned to the factory for servicing.

Mr. Perry then discussed the next question pertaining to foreign manufactured life rafts and issues related to that. Some said that foreign and domestic should be treated the same. Others said that foreign manufacturers may set predatory prices or service intervals to hurt U.S. manufacturers. Another said that foreign makers, with limited liability, would take greater risks with consumer safety.

On the final question on other information, Mr. Perry explained that two comments suggested that the Coast Guard consider standards for the actual life raft manufacture based on ISO-9650-1 and ABYC recommendations. Several other comments stated that if the proposal becomes a requirement, that boat owners would remove the life raft to avoid liability.

Summarizing the comments, Mr. Perry explained that most opposed establishing a federal requirement, some suggested alternatives and a few supported the idea. He then invited NBSAC to discuss whether the Coast Guard should initiate a rulemaking project and if so what requirements should be included, a national or manufacturers' service frequency, manufacturers' or certified servicing facilities, or other life raft inspection methods. The next action the Coast Guard would take, according to Mr. Perry, would be to consider NBSAC recommendations, consider public comments and decide whether or not to initiate a rulemaking. He then asked the Council if there were any questions.

Chairman Muldoon said that they started this initiative so that someone would not be surprised, so they didn't think that they were getting their life raft inspected and it would be safe only to find out that it wasn't. He also commented that most people do not bring the life raft on board the boat unless they are heading offshore. They do not have them inspected unless they are going offshore, and then would have them inspected to the manufacturer's specifications.

Eric Shepard said that the Aftermarket Marine Equipment Subcommittee dealt with this question, and it was felt that they could not make a decision due to a lack of information. They made a motion that they invite a member of the National Marine Manufacturers Association (NMMA) to make a presentation at the next NBSAC meeting regarding the possible certification of life raft repacking stations.

Chairman Muldoon asked the Council if that would be their preference to get more information and then give guidance.

Council replied yes.

Carl Perry said that there were two concerns, the first being over bad repacking. The second concern was that people buy a life raft and never have it serviced, and would need it, and it would not work. The request for comments was not addressing bad repacking, it was to require servicing to ensure that it was in good condition if needed.

Linda Jo Moon said that she was reading through the comments and noticed that many were confused as to what a life raft even was, and others were asking why manufacturers could not provide instructions so that they could inspect it themselves. She believed that there was an educational factor that was missing.

Chairman Muldoon asked for comments and then asked that someone from the USMSA be invited to the next meeting and give a presentation.

Eric Shepard moved that,

NBSAC wanted a presentation on the potential and value of certifying recreational life raft servicing stations from a member of the USMSA at the next meeting.

Ray Tsuneyoshi seconded the motion.

Chairman Muldoon called for a vote.

[The motion passed unanimously]

Chairman Muldoon said that he had neglected to return to the propeller strike to reaffirm the whole motion. He offered that it was the same motion with amendments from the April 2001 meeting and asked for a motion.

Dave Marlow moved that

The individual acceptances to changes for the April 2001 resolution for addressing requirements to prevent and minimize the occurrence of boat propeller strike accidents to be accepted in total by the Council.

See page 34 for final version.

Linda Jo Moon seconded the motion.

Chairman Muldoon asked for discussion.

Ray Tsuneyoshi asked if he was opposed to one part of the four but in agreement of the other three if he should reject the proposal.

Chairman Muldoon said that it was a dilemma of conscience. He called for a vote.

[The measure passes unanimously]

Chairman Muldoon adjourned for the day.

Recess

Tuesday, October 29, 2002

08:30 - Chairman Muldoon called the meeting to order. He stressed that he realized that many Council members had to catch flights, so they had compressed the schedule to accommodate their needs. He then introduced Dave Marlow to present his Subcommittee report.

Boats and Associated Equipment Subcommittee Report

Dave Marlow said that the Subcommittee met on Sunday, October 27, 2002 with members Dave Marlow, Fernando Garcia, Ted Woolley, Ray Tsuneyoshi and Scott Swanby present.

He said that the first item discussed was the status on ignition protection issues regarding bilge pumps or fuel tanks. He stated that Rick Gipe said they had looked at starter motors and were turning their attention to floatation foam and fuel hoses. Rick Gipe also stated that the Coast Guard was mindful of recent EPA actions regarding the permeation of fuel hoses and would be taking that into account during the investigation.

Carl Perry then addressed the next item concerning the development and discussion of regulations to prevent propeller strike injuries. He discussed the summary of public comments seen on the slide show presented on Monday. Carl had put out for public comment on monohull houseboats and had received mixed feedback from manufacturers, the Small Business Administration and private citizens. When the topic was opened for group discussion, Mr. Tsuneyoshi outlined his review of the interlock system produced by Maritech with concern on the capability of restarting

the vessel when the gate was opened during docking procedures. Also, Mr. Marlow stated that several houseboat rental operation members were in the audience and shared enhancements they have come upon with regards to operator education, manuals, operator qualifications videos and warnings. All concerned stated that this was a step in the right direction. The Subcommittee asked that this information be provided for review at the next meeting. Bruce Schmidt then shared statistical data on propeller strike fatalities from the years 1995-2000, showing significant opportunities to reduce casualties in ejection type scenarios. The Subcommittee asked Bruce to provide 2001 data at the full Council meeting; while this did not happen, Bruce was prepared to give his presentation.

Mr. Marlow stated that the next agenda item dealt with the compilation of data needed to research whether it could be determined that NMMA certified boats were in any way safer than non NMMA boats. Again, Bruce Schmidt supplied statistical data and showed how he was constructing a database to reach such a conclusion. The Subcommittee asked the Captain and staff to determine how the Coast Guard made the current statement about certified boats that the NMMA uses in their advertisement campaigns. All felt that after this data would be compiled, that it would be useful to have and to give to the industry to encourage manufacturers to participate in the certification program.

Mr. Marlow then said that Bruce Schmidt also discussed the next agenda item dealing with aligning BARD with VIS. He said that this was foreseeable after the development of VIS in the next months.

Next, Philippe Ras from ABYC provided commentary on the agenda of Compliance Testing Policies developed jointly by the ABYC and USCG. A proposal was put forth by the Subcommittee that the Office of Boating Safety publish internal policies to determine proper flotation procedures used for the boat compliance testing program so that the manufacturers would have the information, which was approved unanimously.

The next item on the agenda was from Rick Gipe, who discussed the feasibility of requiring boat manufacturers to install exhaust muffling systems. Mr. Gipe said this was not within the Coast Guard's jurisdiction. Mr. Woolley provided the group with NASBLA's September 2002 resolution in support of the idea. The audience discussed the issue of noise pollution and its effect on boating recreation in areas where it could restrict the water use of products. It was also recommended that NASBLA look for ways to bring attention to this matter outside the realm of boating safety. Some said that if this were not taken on by the boating industry, it could lead to regulations from other Federal agencies.

Finally, Mr. Marlow stated that Captain Evans updated the Subcommittee on a voluntary off throttle steering standard. He described that the industry has been committed to developing such a standard and were anticipating meeting the standard by the 2006 model year. Discussion then ensued over the ability to retrofit these products, and it was agreed that these enhancements should spur the state of the art in technology for future models.

Mr. Marlow said that this concluded the minutes and he would entertain questions or comments.

Chairman Muldoon asked if Mr. Marlow wanted to put the resolution on compliance testing to the full Council.

Dave Marlow said that he would make the motion

That the Office of Boating Safety publish the internal policies to determine proper flotation procedures, use of the Boat Compliance Testing Program so that manufacturers will have that information.

Ted Woolley seconded the motion.

Chairman Muldoon asked for questions and then called for a vote.

[motion passes unanimously]

Chairman Muldoon then introduced Eric Shepard to provide his Subcommittee report.

Aftermarket Marine Equipment Subcommittee Report

Eric Shepard stated that the Aftermarket Marine Equipment Subcommittee was called to order on Sunday with Mr. Engfer, Ms. Kelly, Mr. Messmann, Mr. Manues and Mr. Shepard present.

First, Carl Perry presented a report on the development of mandatory servicing of recreational life rafts. He stated that there were two key issues to be considered which were to ask whether life rafts should be considered “associated equipment,” and should there be a construction standard for recreational life rafts. Mr. Shepard stated that the Coast Guard did a Notice of Proposed Rulemaking to seek comments. Most comments received were against a standard, but there was strong consensus that servicing was a key issue. Chairman Muldoon noted that there was an Offshore Racing Council (ORC) construction standard and an International Organization for Standardization (ISO) standard in the making.

Mr. Shepard stated that Ms. Kelly moved that either ORC or ISO give a presentation on recreational life raft standards at the Spring 2003 meeting. The motion was seconded by Mr. Engfer and passed unanimously. Mr. Shepard noted to staff that action items in his minutes were not to be considered as resolutions.

The Subcommittee then discussed the comments on potential service. Mr. Perry stated that of the 45 comments, 31 were against such a rule. Captain Evans noted that servicing of the life raft was the owner’s responsibility, much like changing the battery in a smoke detector. He offered an alternative of enhancing educational materials to include life raft service reminders. Mr. Shepard stated that there was a significant discussion on the perceived issues with life raft repack stations. Mr. Messmann made a motion to invite a representative of the USMSA to the April meeting to make a presentation concerning certifying recreational life raft servicing stations. The motion was seconded by Jim Manues and passed unanimously.

On the invitation of Mr. Shepard, Mr. George Bellwoar of Perko made a presentation on navigation lights. Mr. Bellwoar discussed the difficulties for the manufacturer as well as the opportunities available in the use of LED lights. While LED lights offer many unique advantages, they are also up to 10 times more expensive than conventional navigation lights.

Some of the features Mr. Bellwoar noted included:

- 12 candela being necessary for a 2 mile light.
- Cut off angles are very hard to achieve because of multiple light sources.
- Lights meeting the standards consume 10 to 50% of the power of conventional lights.

- Typical life span is greater than 10,000 hours.
- LEDs have no contacts to corrode and no filament to break.
- Costs are not likely to go down in the foreseeable future.

The presentation also noted that there were some regulatory issues that needed to be addressed as to what should the manufacturers do with a fixture with multiple light sources that loses a single source, whether to extinguish the entire light, flashing the light, or having it be left as is.

Some of the opportunities LEDs would offer would be to flash faster than the eyes can detect but could be read as code as a registration number and boat description. They could be switched over to an S.O.S. signal in case of emergency. Dick Snyder mentioned, in the meeting, that flickering lights could be explored as being more visible.

Next, Russ Levin from the Coast Guard advised the Subcommittee on what his presentation would include in the full Council session regarding DSC and GMDSS.

Mr. Shepard stated that Richard Kanehl from the Coast Guard said that work was being done on kayak sponsons and that a contract for study had been started. He stated that there was a lack of use of sponsons as well as a lack of education as to what they are.

Next, Rick Gipe presented information concerning the feasibility of regulating after market equipment. He mentioned the starter project where the Coast Guard thought that they would pose a spark hazard but was proved false. Similar projects on fuel hoses and bilge pumps were to follow.

Mr. Shepard stated that Mr. Marlow brought up the topic of products used in the construction of new boats and numerous engineering notices to dealers. Mr. Gipe stated that the Coast Guard can recall boats and equipment but not products in the component level. He referenced an issue with a fuel fill recall where the Coast Guard had to manage the recall through 171 boat builders instead of the component manufacturer. Ms. Kelly then asked how NBSAC can help the Coast Guard, and Chairman Muldoon mentioned a potential change in the legislative mission for the Coast Guard. Mr. Shepard suggested that Captain Evans be charged with reporting back to the Subcommittee what the Coast Guard thinks it would need to get a mandate for enhanced oversight of a broader range of marine products.

Next, Mr. Shepard reported that Philippe Ras of the ABYC presented information on efforts to fix issues with “table 4” regarding engine weights. Mr. Manues moved that the USCG study the elimination or revision of table 4 with consideration to adding maximum engine weight to the capacity plate described in Part 183, Subpart C. The motion was seconded by Ms. Kelly and passed unanimously.

Finally, Mr. Shepard reported that Mr. Messmann gave an update on the Council’s request to NASBLA to review and develop a model act regarding the prevention of overpowering of boats. Mr. Messmann noted that the request of the Council missed the last assignment of committee work at NASBLA but that there was a meeting in three days where this would be addressed. He then stated that there would be a report at the April 2003 NBSAC meeting.

Mr. Shepard stated that he adjourned the meeting at 15:02. He asked the Council if there were any questions.

Chairman Muldoon asked Mr. Shepard if he wished to bring any motions to the Council.

Eric Shepard said that he did not, that they were only action items.

Chairman Muldoon asked if there was anyone in the audience who represented the canoe and kayak industry (no response). He noted the absence of anyone representing the canoe and kayak industry and suggested that the Council direct the Coast Guard to notify them that NBSAC is considering lifting exemptions and that they should attend the next meeting.

Mr. Muldoon then introduced Commodore Belmore to present the Prevention Through People Subcommittee report.

Prevention Through People Subcommittee Report

Como. Belmore stated that the Prevention through People Subcommittee was called to order at 15:30 on October 27, 2002 with Commodore Belmore, Larry Innis, Bob David, Linda Jo Moon, Joan Bondareff, and Lucia Roberts Francis present. The meeting began with a report by Mr. Charlie Kearns of PFDMA regarding different types of inflatable personal flotation devices. He emphasized that education was the key with the new PFD's as they have restricted use and were not authorized for whitewater, water skiers or non-swimmers. He said that there was also a need for education on maintenance, turning action and how to replace spent cartridges. A grant had been given to develop a PFD university to emphasize education on why you need to wear one. Mr. Kearns also stated that NASBLA had a label grant and was looking at what needed to be on the label.

Como. Belmore then described the new inflatable devices as having a visual indicator in the form of a green dot to let the user know that the PFD is ready for use. They also discussed the belt pack PFD, and that it must be put on once inflated in order to do the job of a PFD. There was also discussion as to the lack of PFD usage in commercials and that the Council should be proactive in contacting advertisers regarding the need to support the use of PFDs. It was also recommended that NBSAC write a letter to Admiral Loy, the head of TSA, to ask him to allow exemption of inflatable CO2 cartridges on airplanes. The motion passed.

Como. Belmore then said that Mr. Carl Perry presented a report on Coast Guard rulemaking on PFD wear for children under the age of thirteen. Mr. Perry requested a response on changing the language to "certain children" to replace "each child" at the request of some States. He stated that the rule becomes effective on December 23, 2002 and that the Coast Guard would begin enforcement on January 1, 2003. The Subcommittee then discussed States' rights. The rule would force recreational boaters in states without child PFD wear laws to comply with the Federal regulation, but would adopt the State requirement in those States that have wearing requirements. Mr. Perry indicated that the wording of this regulation would allow any changes in State laws to automatically be included. Mr. Schmidt reported to the Subcommittee that 148 children had died in boating accidents between 1996 and 2000, of which 55 were wearing PFD's and 93 were not. The Council discussed requiring a Type II PFD for children under 13, but no motion was made at that time. The Subcommittee passed a resolution supporting the Coast Guard's action and would have the Coast Guard report on the rule's effectiveness in April, 2004.

Como. Belmore then stated that Captain Scott Evans gave an update on the Wallop Breaux reauthorization. He stated that the current proposal had recreational boating receiving 18% of the funds, resulting in approximately \$83 million for the RBS account (as opposed to \$110 million

that a 50/50 split of the Motorboat Fuel Tax would give.) He said that NASBLA was meeting to discuss the present offer.

Como. Belmore then said that Captain Evans presented an explanation on the VIS, which was originally a Congressional mandate initiated by the banks so that they would be able to track boats with mortgages. Captain Evans stated that the Coast Guard wanted the capabilities VIS would provide to help deal with new HLS issues. However, there was an issue in forcing states to participate as opposed to voluntary participation, which would not be as effective.

The next item on the Subcommittee agenda was a presentation by Mr. Bruce Schmidt on the Human Factors in Recreational Boating Accidents. There is a website, www.marinesafety.org/Publications/Chap3.pdf available for this information. Mr. Schmidt also reported that 26 states as well as 688 patients voluntarily participated in providing boating accident injury data from a sample of hospital emergency departments nationwide. Mr. Schmidt also stated that the 2001 boating statistics would be made available about a month after the meeting but that preliminary results showed 675 deaths even with the addition of swimmers from the boats, which had not been included before.

Next, Como. Belmore said that The Coalition of Parents and Families for Personal Watercraft Safety, represented by Nita Boles and Monica Key, presented a video clip of news coverage of a PWC/Boat collision which cost the life of her son at age 9. The purpose was to bring into focus the social costs of these accidents beyond the initial costs in terms of those involved at the scene, family members, other associates who have lasting effects from such accidents requiring counseling and perhaps life-style changes. A discussion was held on the possibility of the Coast Guard setting up a model program to determine social costs.

Como. Belmore said that Como. Warren McAdams from the Auxiliary commented on the Vessel Safety Check Program and the Coast Guard's intent on honoring the VSC. VSC is an educational tool, and the Coast Guard and other authorities cannot disregard vessels displaying the VSC while doing a routine boarding or exempt them from boarding although they could do a somewhat briefer boarding if appropriate. Several other factors were discussed concerning the removal of equipment after the VSC inspection, rendering the vessel in violation.

Next, Eric Shepard, the NBSAC representative to NAVSAC indicated that NAVSAC was looking for a program managed by the Coast Guard to endorse and certify training courses for recreational boaters, which NASBLA already had in place. NAVSAC would like satisfactory completion of such a course as a pre-requisite to issuing a recreational boater's license or registration.

Como. Belmore said that Bob David made a motion regarding the importance of Wallop Breaux funds for Boating Safety. It was moved that NBSAC continues to support its previous resolution regarding the 50/50 split for future negotiations. The motion passed.

Chairman Muldoon noted that, when talking about ALAB, it is important to remember that they could be jumping from \$74 million to \$110 million, a number that has been constant for 5 years. He asked the Council if they wanted to send a message to NAVSAC through Mr. Shepard about their request about mandatory licensing and education. He did not want to ignore NAVSAC as NBSAC did not want to be ignored by NAVSAC.

Eric Shepard suggested that he would contact the director noting NASBLA's certification program and suggested that the education representative from NASBLA make contact as well.

Chairman Muldoon said that it was a good suggestion and did not want to ignore NAVSAC.

Eric Shepard stated that he would be meeting with the NASBLA Education Committee Chair later in the week and would discuss the issue with him.

Carl Perry asked to amend the report on the middle of page one, talking about PFD requirements, that the rule would force the States to comply. To be correct, Mr. Perry said that the rule would require that recreational boaters in States without laws comply with the Federal child PFD regulation.

Comm. Belmore agreed to make the change. She said that there were three brief motions, the first read that:

It is recommended that the National Boating Safety Advisory Council write a letter to Admiral Loy, head of TSA, to ask him to allow exemption of inflatable PFD CO₂ cartridges on airplanes.

She stated that this issue had been discussed at previous NBSAC meetings and cartridges were confiscated. At one point they were allowed in checked baggage but were not allowed at all again.

Ray Tsuneyoshi moved.

Bob David seconded the motion.

Chairman Muldoon asked for discussion, and then called for a vote.

[motion passed unanimously]

Como. Belmore read the second motion :

It is moved that the National Boating Safety Advisory Council support the final enactment of the present rulemaking for children under age 13 wearing PFD's, and that the Coast Guard report after one year (April 2004) on the effectiveness of this regulation.

She stated that the Subcommittee felt that there should be support for continuing this effort and perhaps a requirement for a Type II PFD would be added at a future date dependent on the data received.

Linda Jo Moon moved.

Bill Engfer seconded the motion.

Chairman Muldoon asked for discussion and called for a vote.

[motion passed unanimously]

Como. Belmore read the final motion

It is moved that the National Boating Safety Advisory Council continue to support its previous resolutions regarding the 50/50 split of the motorboat fuel tax, under the Wallop-Breaux Fund, for ongoing negotiations.

Dave Marlow moved.

Ted Woolley seconded the motion.

Chairman Muldoon asked for discussion from the Council. He said that Captain Evans brought up something worth noting, that they had never been at 50/50. He asked the Council if they wanted 50/50 or to say that they wanted something more equitable.

Bob David said that he supported the previous authorization and maintained his position.

Como. Belmore said that they supported the ongoing negotiations for 50/50.

Chairman Muldoon asked for more comments, then called for a vote.

[motion passed unanimously]

Chairman Muldoon then introduced Commander Michael Husak, Chief, Short Range Aids to Navigation Office, United States Coast Guard.

Short Range Aids to Navigation Issues that Affect Recreational Boaters

Commander Husak began his presentation by showing a sailboat stuck in a mudflat. His job, he explained, was to keep incidents like that from happening. He then stated that buoy tenders were now being used in homeland defense instead of servicing and placing buoys. He said that since September 11, many of these were used as homeland defense assets; and since then, many of them have not returned to their original task.

He then said that lighthouses were the most costly aids to navigation that they had. He stated that technology was supposed to replace the lighthouses but has yet to do so. He said that the majority of their work revolved around buoys and beacons, of which there are about 36,000 of them. He stressed that he could not help them with this upkeep if boaters did not help him with identifying discrepancies.

Chairman Muldoon asked him to describe a discrepancy.

Commander Husak said that it could be a marker that is not there or one that is too faded to read clearly.

Chairman Muldoon asked about changes in conditions and whether that would be considered a discrepancy.

Commander Husak said that that would be a discrepancy. He then moved on to the topic of the Western Rivers System. He said they had placed 15,000 aids into these rivers alone. He spoke about the difficult upkeep of some of these aids as they have broken. A positive side to this, he joked, was that these provided nesting areas for endangered birds.

He then moved onto the next part of his presentation describing the system of interventions. He said that the aids to navigation are only one part of the Coast Guard's responsibility to keep the boater safe. He said that this has to do with search and rescue, regulation, and preventative measures. This service does not only benefit the recreational boater but also small and large commercial shippers.

He said that of all of the aids to navigation, 15,000 were placed in western rivers, 36,031 on Federal coasts, and 35,436 are privately owned. He said that the trend was to place the aids to navigation into the hands of the users. Private citizens can request that an aid be put up in their area where they see a hazard. He then broke the aids down into critical areas, environmentally critical, militarily critical, and navigationally critical. He stated that the Coast Guard's primary interest in these aids was not for the recreational boater. He said that they "may" serve commerce but are required by law to serve defense. However, he stated that of these aids, 99% are politically critical, with a recreational boater being able to contact a Senator and have an aid put into place.

Como. Belmore asked what is considered commerce. She said that there are chartered fishing boats that are commercially registered.

Commander Husak answered that Mississippi is good at getting many aids there. He said that he could not get into the technical definition of that, but that there is some overlap in places where both commercial and recreational vessels use the same waterways. There should be an aid where a hazard exists.

Ted Woolley said that he believed that electronic navigation and GPS was supposed to take the place of many of the aids to navigation and wondered about the possibility of mistakes.

Commander Husak said that it was impossible to design a fail safe method for navigation. He said that some people wanted to use virtual aids, but he did not agree with them. He said that short range aids to navigation were very practical. However, he said that the majority of lighthouses in the United States were no longer of any use.

Eric Shepard asked Commander Husak about the Adopt-a-Lighthouse Program.

Commander Husak asked if he could address this at the end of the presentation.

Ray Tsuneyoshi asked about privately provided aids to navigation. Mr. Tsuneyoshi said that in the Sacramento River many people who own waterfront property place no wake buoys. Then, they call the Coast Guard and ask them to regulate (enforce) them, which they cannot do because it was not a Federal channel. He said that he had taken a trip on the Sacramento River earlier that year, and they had counted 110 buoys that should not have been there.

Commander Husak said that in that situation, he should contact the district office who needed to be made aware of the situation.

Ray Tsuneyoshi said that he had the State Land Commission screaming at him because they put them in, the Coast Guard approved them, but could not enforce them.

Commander Husak said that it is a safety issue. He said that it should be local communities getting together and deciding where aids need to be placed. He said that local groups could get

together every couple of years and analyze the local waterways and locate dangers and discrepancies.

Eric Shepard said that, in the State of Florida, a private aid must be approved by the State and the Coast Guard.

Commander Husak then pointed out that since September 11th, the funding for the Coast Guard has increased. However, money for aids to navigation has decreased. Also, as he had said before, many of the aids to navigation assets are being used for homeland defense. The entire program costs about \$900 million in 2004. He said that the entire infrastructure is not working as well today as it has in the past. He said that it was built in the Reagan era and is aging and getting tougher to maintain. He then said that certain areas were harder to maintain than others, but that again, it was up to the boater to notify the Coast Guard when a discrepancy was found.

Larry Innis wanted to know what aids were private and what were public and how to distinguish between the two. He wanted to know which were used for commercial purposes and which were used primarily for the recreational boater, from the Coast Guard.

Commander Husak said that the St. Louis River system near Lake Superior came to mind. He said that they had not come up with the definition that Mr. Innis wanted, but that he could do that to let them know specifically where these aids are and what purpose they serve.

Chairman Muldoon asked if Mr. Innis was looking for a definition.

Larry Innis clarified that he wanted a definition on what would be considered commercial.

Chairman Muldoon questioned who is responsible for liability if a private aid does not work.

Commander Husak said that aids are to be used in conjunction with other navigation equipment. So they do not have liability unless they become negligent in their own maintenance and response duties; and in that case, the Government may be held liable. He did not know how many times this has happened.

Bob David said that in his area many towns operate navigation systems in the estuaries. He asked where a town's aids fall, private or Federal.

Commander Husak said that there were many areas which would be controlled in the State jurisdictions.

Bob David said that State aids were in addition to private and Federal aids.

Commander Husak responded that they were.

Como. Belmore wanted a comment on replacing the metal aids with new foam materials, and also commented that the Auxiliary has a system to verify private aids.

Commander Husak stated that steel was still the preferred choice in most applications. Foam is easier to work with because it is lighter. He said the problem with the Auxiliary's program is that since they are volunteers, when they decide to quit doing it, the job will no longer be done. He did say that the Auxiliary is providing a valuable service by doing the job currently though.

He then said that they are coming up with an information system database, where you can get your local notice to mariners and learn what is happening with the surveying maps. You can get all of this information on the Internet. He said that this is going to replace a lot of aids to navigation. Virtual aids won't replace all physical aids; and e-navigation technology is not the cure, but it will be able to replace a lot of the aids in the future. Aids to navigation are governed by international law; and internationally there is an interest in unifying the system so that they all look alike. Other countries are also using new e-technology to phase out physical aids to navigation. He then mentioned that people could adopt lighthouses and that the place to find this information was on the Department of the Interior's website.

Ted Woolley asked if he could move a lighthouse to Utah.

Commander Husak said that no they could not. He said that you could do a variety of things adopting a lighthouse, but it is difficult to do much to them because of laws to protect their antiquity. He reemphasized that the lighthouse has been phased out and is no longer of much use in the majority of cases.

He emphasized that aids to navigation serve the recreational boaters. This interest comes from Congress, to serve defense, security, commerce and the recreational boater. The program costs \$1.4 billion dollars. He said that the Council could help by educating the community to notify the Coast Guard of where changes need to be made and where aids need to be placed.

Chairman Muldoon asked if there was a security ramification for any of this.

Commander Husak said that there was none whatsoever.

Chairman Muldoon asked if there were any more questions. He thanked Commander Husak and gave a 10 minute break.

Response to Member's Items

Chairman Muldoon said that the next item listed on the agenda, Mr. Perry's report on wearing of PFDs by certain children aboard recreational vessels, had already been covered, which allowed them to move on to the response to the member's items. He then introduced the Captain to cover the members' items.

Captain Evans said that the NBSAC was created to support the Coast Guard in its RBS efforts, and that he decided to answer the questions to ensure that all knew he heard their input and understood their concerns.

He started with Mr. Woolley's inquiry about receiving a copy of the Coast Guard's minimum safety standards. He answered that copies of the statute (46 USC 4302) were being distributed. The statute does not define the phrase specifically, but it has been interpreted within the agency for its purposes.

Chairman Muldoon asked Mr. Woolley if his question was answered.

Mr. Woolley responded that it did not answer the question but it sounded like they were going to look into it to answer it in the future.

Mark Suttie wanted to ask about the proposed regulations regarding propeller guards, he saw it as lacking a performance standard and that if more data was specified, that it would be easier to comply.

Chairman Muldoon said that society has forced them to write those things in language that only a narrow group of people can read.

Captain Evans again wanted the Council to know that he was listening to them. He then moved on to Mr. Tsuneyoshi's question about whether the 17-digit HIN was still dead. The Captain said that if the Council desires to revisit this issue at the next Council meeting, the staff would prepare a presentation to be given at the next meeting.

Ted Woolley said that a historical presentation would be a waste of time, and he wanted to know how they could move on with the regulatory process.

Captain Evans said that the Coast Guard would make this a topic of conversation at the next meeting.

Ted Woolley wanted to know why the process has not moved on and why it has hit a roadblock.

Chairman Muldoon said that they were going to address this issue in the Chairman's session.

Dave Marlow said that there would be a way to align the thinking of their desire for a 17-digit HIN and VIS.

Chairman Muldoon said that it was brought to his attention that they did not have the support of industry on the 17-digit HIN, and he wanted to clarify that industry members of the Council were not opposed to this.

Bob David said that he was the one who noted that Europe had adopted a 17-digit HIN, and he had been told that he may have been in error. He said that the subject was discussed in Europe, but had yet to be implemented.

Karen Kelly said that she did not want to stall until the next meeting, and said that there were things that needed to be done now.

Chairman Muldoon said that there would be a resolution brought up in the Chairman's session.

Ray Tsuneyoshi said he remembered that Mr. Schmidt said that this 17-digit HIN could be incorporated into BARD with no problems, and that that should not be an issue in moving forward.

Bruce Schmidt clarified that there would be no problem incorporating the 17-digit HIN into BARD.

Captain Evans said that they had actually reserved 21 slots for a HIN. He then moved on to Mr. Swanby's question of regulating classification of PFDs. He said that a presentation on the project was given at NASBLA the month before, he did say that if the Council desired that they could give the same presentation at the April 2003 NBSAC meeting.

Scott Swanby said that it would be a great help to everyone as there was much confusion on the different types of PFDs.

Chairman Muldoon requested that the presentation be structured in a way that it makes sense.

Scott Swanby stated that NASBLA did a good job in their presentation.

Linda Jo Moon said that she would also like to see that presentation broken down about children's PFDs.

Ray Tsuneyoshi said he wanted more information about children's PFDs rated to turn children face up, but failed in doing so.

Chairman Muldoon said that they were getting members' specific questions answered and that they would address this issue further in the next meeting.

Captain Evans then brought up Mr. Swanby's next question about the grant to Boat US to develop a boating safety awareness program directed towards sportsmen. He said that this was a multi-year grant, which was currently in its third year, and the project was being headed by Mr. Chris Edmonston. Again, the Captain offered to make a presentation at the next Council meeting if so desired.

Chairman Muldoon said that he was in a Congressional hearing where Boat US testified against the use of PFDs for 13 and under kids, which is an opposite position they reflected on the Council.

Captain Evans asked if the Council wanted an update for the next meeting.

Scott Swanby said they could get Chris (Edmonston) to present a book and video at the next meeting.

Captain Evans then moved on to Mr. Swanby's next question dealing with PFD testing dummies. Captain Evans stated that the Coast Guard had developed a male mannequin and that female and child mannequins are being developed.

Scott Swanby stated that they received an update three or four years ago. He thought that it would be beneficial to the Council to update the status of the dummies.

Chairman Muldoon said that one of the items brought up in the private session is the need to follow that charting, when they change positions, the Council needs to be updated and the Coast Guard should not wait until the meetings to inform them.

Captain Evans stated that Mr. Swanby's other concern was with capturing PFD data in BARD.

Jeff Hoedt said that the data could be included in BARD to analyze the PFD's effectiveness. Coast Guard staff were working with NASBLA and their Boating Accident Investigation, Reporting & Analysis Committee (BAIRAC) to amend BARD to accept the data, and also would need to consult with NASBLA to get their investigators to gather this data. He assured that the system was in development.

Scott Swanby said that there is the option to store this data in BARD from information given at the last meeting.

Chairman Muldoon said that it was important that the data be used to make sure people understand what they are putting on their children.

Fred Messmann stated that he had talked to a group, and that there will be a charge to develop a new program to report PFDs to the BAIRAC committee.

Captain Evans said that Mr. Swanby also inquired about the PFDMA grant for educational outreach. The Captain said that a member of their staff stated that the grantee is developing the script and the marketing and distribution plan. Once approved, the Captain said that a shoot date would be set.

Chairman Muldoon went back to a previous question and said that the development of the dummies took a long time, and asked when they were they going to have it done.

Scott Swanby said that he would like to be updated on this project at the next meeting.

Chairman Muldoon said that this was the time for the Council members to phrase these questions very specifically to the people taking the information to get it on paper.

Eric Shepard wanted to suggest that the Subcommittee Chairs and the Executive Director and Chairman coordinate this because many of these topics were more suited for Subcommittees than the full Council meeting.

Chairman Muldoon said that was a good suggestion.

Captain Evans said he wanted to move on to Mr. Shepard's inquiry about the Wallop-Breaux reauthorization effort. He wanted to know if anyone had any questions as to the Coast Guard's stance and he believed that all were in alignment.

Scott Swanby said that he had another question regarding ISO standardization. In Boston they had an update, and he believed that a Subcommittee would like to see an update on that at the next meeting. He also wanted to see an update on the international and U.S. standards in PFD classifications.

Eric Shepard said that the next ISO meeting was not until May, 2003, too late for the April, 2003 meeting.

Chairman Muldoon asked if there would be enough to tell the Council in the spring meeting.

Eric Shepard said that there would not be much information for the spring meeting, but much more in the fall meeting. He suggested that the update be provided in the fall meeting as opposed to the spring meeting.

Scott Swanby agreed.

Captain Evans moved on to Lucia Roberts Francis' question regarding travel restrictions for CO₂ cylinders for inflatable PFDs on airplanes. He said that they would approach the

Transportation Security Administration. He said that more information on this subject was given in a handout.

Chairman Muldoon said that the problem is that it is up to the discretion of the airline.

Captain Evans then moved on to Ms. Moon's concerns from the Professional Paddlesports Association on what they are doing to address the canoe and kayak fatalities. He said that the staff would contact the PPA to seek this information and have them address the Council at the next meeting if desired.

Chairman Muldoon said that they are very strongly considering requesting the removal of exemptions because of their lack of interest in the Council.

Captain Evans said that they were going to get a letter to them. He said that Ms. Moon also addressed information on the types of PFDs for children and asked if it had been adequately addressed.

Jo Moon said that it had.

Captain Evans brought up Mr. Messmann's concern with multi-federal agency jurisdiction and regulatory control of the waterways. The Captain said that the Coast Guard would continue with this, but they had some concerns at how to do it. He asked if Mr. Messmann was comfortable or if he wanted a more formal statement.

Fred Messmann said that he was in a dilemma, and said that he would refer the question to Mr. Garcia who also voiced concern with this.

Fernando Garcia stated that the Coast Guard needed to create a dialogue between agencies.

Chairman Muldoon asked about interagency task forces, and that these other agencies may have a lot to learn from the Coast Guard before setting regulations.

Fred Messmann said that there needs to be an interagency task force because there is no leadership.

Captain Evans said that the Coast Guard is pursuing it.

Fred Messmann said that there needs to be progress made, and it could not wait until the next meeting.

Chairman Muldoon said that the government is doing a lot of that with security, getting agencies to work together who have never done that in the past.

Fernando Garcia was more concerned with timeliness, specifically with one issue involving the National Park Service, where a proposed regulation's comment period is due by the next Monday. He asked the Coast Guard to simply submit comments.

Chairman Muldoon asked who they were due to.

Fred Messmann answered, the National Park Service (NPS).

Fernando Garcia requested that very narrow, focused comments needed to be made.

Chairman Muldoon suggested that the Coast Guard ask for a delay in the comment period.

Jeff Hoedt asked for a reference to the rule so that the Coast Guard could respond.

Fernando Garcia said that he could provide the reference to the Coast Guard.

Carl Perry asked when the rule was published, and said that he would be able to find it.

Fernando Garcia said that the issue was beyond a time crunch.

Chairman Muldoon said that he would not like to see the NPS take the lead over the Coast Guard in that area.

Eric Shepard stated that a good deal of NPS waters were under Coast Guard jurisdiction, and there is activity to restrict the use of the waterway to certain individuals.

Ted Woolley said that Lake Powell had a rule out restricting certain types of craft.

Captain Evans then addressed Mr. Marlow's concern as to where the Executive Director got the information about fire ports, and questioned the accuracy behind these reports. He said that he got the information from industry, from NMMA and ABYC, and they said that they felt that it was left to the manufacturers to determine this. He said that the Coast Guard would continue to monitor this.

Chairman Muldoon believed that this would also be a resolution offered in the Chairman's session.

Dave Marlow said he found it difficult to believe that a logical and scientific approach to this issue is that a fire port would add to the problem.

Chairman Muldoon said that he should bring the resolution up in the Chairman's session.

Captain Evans said that the engineers are the ones who made the decision.

Philippe Ras stated that ABYC does have a standard for fire ports.

Chairman Muldoon asked if it was a written one.

Philippe Ras stated that it was.

Eric Shepard said that part of the original motion was to bring non-ABYC compliant vessels into compliance with ABYC standards through a Coast Guard mandate.

Philippe Ras said that ABYC was not opposed to this, but perhaps NMMA was.

Captain Evans said that he heard them and would work out the details and get back to them.

Rick Gipe stated that certain members of the ABYC technical board were opposed, but not the organization.

Captain Evans said that they would continue to look at the issue and figure it out. He said that Mr. Marlow also had concerns with EPA emissions and fuel component rulemaking. He said that the Coast Guard was watching this issue extremely closely and working with the EPA. He said that the Coast Guard is working with the EPA in testing catalytic converters on marine engines. He also stated that the Commandant is responding to a Congressional inquiry concerning the EPA's plans to pressurize fuel tanks. A member of staff has been assigned to attend all meetings and follow developments.

Dave Marlow wanted to add that the industry is doing their own tests. He suggested that the Coast Guard engineer get directly in contact with John McKnight, the environmental director of NMMA. He wanted to remind the Council about the ability to recall marine products.

Captain Evans moved on to Jim Manues' concern to require a child PFD to be able to turn the child face up. He said that the Council seemed to be headed in that direction, about whether the Coast Guard should consider a rulemaking effort. He says that the Coast Guard will keep moving on this subject and then would consider a requirement for type of PFD.

Chairman Muldoon asked for comments.

Captain Evans then asked Ms. Kelly if her issue was covered with Wallop Breaux.

Karen Kelly responded that it had been.

Larry Innis explained that his concerns with HINs and Wallop-Breaux were also covered.

Captain Evans then moved to Mr. Garcia's concerns over NPS rulemaking proposals.

Fernando Garcia asked for clarification.

Jeff Hoedt said that their first priority was to get a copy of the rule and make a comment on it.

Eric Shepard strongly suggested seeking an extension due to the time issue so that all the correct procedures could be done.

Fernando Garcia asked that the Coast Guard submit a comment even after the comment period.

Ted Woolley agreed with Mr. Garcia because if something is not done quickly, PWCs could be eliminated that coming spring.

Chairman Muldoon wanted to know the law on public comment versus agency comment.

Carl Perry said that it is not restricted to a certain time.

Captain Evans brought up Mr. Garcia's second concern with the no-wake zone for PWCs.

Fernando Garcia stated that this was part of the same issue.

Captain Evans then answered Mr. Engfer's desire that the Coast Guard address a potential unfunded mandate to the states concerning the VIS project. He said that he could not give a

definitive answer now, but they will be moving forward, and they will be working with the States on this issue.

Bill Engfer wanted to know if there was a timeline prior to the next meeting.

Captain Evans stated that their goal was to develop a business plan, but it had to go through the building.

Bill Engfer encouraged them to involve NASBLA.

Captain Evans agreed.

Chairman Muldoon said that if anyone had ever been inside that building, they would understand the difficulty in getting rules through that building.

Captain Evans asked if Mr. David had any more questions about the 17-digit HIN.

Bob David stated that he did not.

Captain Evans said that Ms. Bondareff had concerns about educating canoe and kayak manufacturers and dealers. He said that the Coast Guard was aggressively pursuing this topic. He told the Council that he would tell these dealers what they are discussing, and that it would be in their best interest if they were present at the next meeting.

Jeff Hoedt said that the PPA was primarily the liveries, as well as the manufacturers and dealers. He asked if they wanted manufacturers and dealers to come along with the PPA.

Joan Bondareff said that she did.

Captain Evans said that the Coast Guard would send the notice out. He then brought up Ms. Bondareff's second issue with PFD standards that make sense.

Joan Bondareff said that the response to Mr. Swanby's concerns addressed her concerns.

Captain Evans wanted everyone to know Captain Lutz, and he was present at the meeting and was concerned with this topic. He then brought up Ms. Bondareff's concern that Operation Boat Smart stay viable during the transfer of the Coast Guard to the DHS. The Captain assured the Council that Operation Boat Smart was alive and well.

Joan Bondareff stated that she was interested in bringing a motion during the Chairman's session to support an Undersecretary of the Coast Guard in the new Department of Homeland Security.

Captain Evans said that Ms. Bondareff wanted the Coast Guard to obtain and utilize health care and societal costs in boating safety statistics.

Jeff Hoedt said that the DOT sets the format that they are allowed to use in capturing the costs. They don't know what some of the other administrations have done and if the Coast Guard has flexibility or must adhere to one standard.

Joan Bondareff suggested that when looking at the other agency models to see whether they have different regulatory authority, and whether in such rulemaking the Coast Guard will need legislation to accommodate that format. Otherwise, she said that the Coast Guard will be up against costs of over \$100 million dollars that you may not be able to outweigh with how the benefits are currently being measured. She thinks that the Council could help the Coast Guard get it through the process.

Captain Evans said that Como. Belmore was concerned for canoe and kayak safety issues, and also with flare disposals. He asked her if she was satisfied with the answer of canoes and kayaks.

Como. Belmore stated that she was.

Captain Evans said that they had put forward a grant proposal on flare disposal and will report at the next meeting. He then moved to Mr. Woolley's desire to have the Coast Guard define the term "white water river". He said that the Coast Guard will consult with staff and others to answer this question, and they will get back to the States.

Ted Woolley said that an additional letter will be sent asking for more details.

Captain Evans addressed Mr. Tsuneyoshi's concern that the California Sheriff's Association remove the exemption for children wearing PFDs in boats over 40'. The Captain stated that the Coast Guard supported the State if they decide to make this change. He said that if a State changes their rule then the Coast Guard will support and enforce this rule.

Chairman Muldoon thanked the Captain. He said that there were five administrative things that they wanted the Coast Guard to do. With the Council's permission, he wanted to send that to them so they would not need to discuss it during the meeting. He opened the floor for new resolutions.

Ted Woolley made a motion:

That the Coast Guard thoroughly investigate and provide detailed findings and report back to the Council by January 30, 2003 on the resolutions, action items and member items from the April and October 2002 meetings.

Ray Tsuneyoshi seconded the motion.

Chairman Muldoon asked for discussion and called for a vote.

[the motion passed unanimously]

Chairman Muldoon asked if there were any more resolutions.

Joan Bondareff moved

That the Council support the position for Undersecretary for the Coast Guard in any Department of Homeland Security which is created, and to which the Coast Guard may be transferred.

Karen Kelly seconded the motion.

Chairman Muldoon asked for comments.

Jo Moon wondered what exactly the title of Undersecretary would mean.

Chairman Muldoon stated that it would have been a step up from where the Commandant was.

Joan Bondareff stated that in a presentation she saw that the Coast Guard was buried in another of the Undersecretary positions and she desired to create its own one to highlight the Coast Guard's role.

Chairman Muldoon stated that an unknown person said that when the Homeland Security Bill is passed that the title of Undersecretary will go away.

Chairman Muldoon said that he wanted some tie to boating safety in that motion.

Joan Bondareff added at the end of the resolution:

That the Council support the position for Undersecretary for the Coast Guard in any Department of Homeland Security which is created, and to which the Coast Guard may be transferred, for the purpose of insuring that boating safety remains a high priority at the new Department.

Chairman Muldoon asked for further discussion and called for a vote.

[motion passes unanimously]

Chairman Muldoon asked if there were further motions to bring before the Council. He then asked if anyone in the audience had anything that they wished to bring before the Council.

Mark Suttie said that as a representative of Lake Powell, he believes that his industry is receptive to mandatory education and or boat licensing. While he cannot speak for all houseboats as a whole, his group supports the mandatory education.

Chairman Muldoon asked for further comments. He admitted that it had been a tough weekend. He said he had no further issues. He thanked the staff, thanked the Captain and thanked the Council and audience for giving up their time to try and save lives.

Dave Marlow moved to adjourn.

Ray Tsuneyoshi seconded the motion.

70th NBSAC meeting adjourned at 10:37 October 29, 2002.

This is to certify that the above are accurate minutes of the sixty-ninth meeting of the National Boating Safety Advisory Council.

James P. Muldoon, Chairman
National Boating Safety Advisory Council

Jeffrey M. Hoedt, Executive Director
National Boating Safety Advisory Council