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**DEPARTMENT OF
TRANSPORTATION**



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REMARKS BY REAR ADMIRAL J. J. McCLELLAND AT THE NASBLA CONFERENCE,
MILWAUKEE, WISCONSIN, NOVEMBER 19, 1969

BOATING SAFETY AND FEDERAL/STATE/INDUSTRY ROLES

The Coast Guard report to this conference is quite lengthy, so I will not attempt to give you the complete package this morning. A copy is being provided for each Administrator. The report includes our responses to your 1968 resolutions, the results of the stolen vessel questionnaire, a breakdown of Coast Guard boarding activities, responses to certain aids to navigation questions, details of our educational program, accident statistics, and other related matters. This report will provide a review of our activities during the past year.

It seems to me that since enactment of the Federal Boating Act of 1958, and especially during the last two years, the Federal government, the States, and industry have been active in developing and refining their relationships and their respective responsibilities for boating safety. I feel that these roles have now been pretty well established. I would like, therefore, to review some of these relationships as they affect the Coast Guard, and to report to you briefly on some of our current programs and our intentions for the future.

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We all can improve the safety of boating on our waterways by:

- Providing the boatman with a well designed, well built, properly equipped boat;
- Ensuring that he operates in accordance with the law;
- Educating the boatman in the safe operation and proper maintenance of his boat;
- Informing the boatman concerning the marine environment through adequate and effective aids to navigation, and through weather and sea broadcasts and warnings; --

While at the same time, not interfering with the boatman so as to spoil the fun in boating. Let me consider some aspects of these objectives.

First I believe that a sound Federal policy on the establishment of minimum safety standards for boats and associated equipment has been developed. The Coast Guard's function will be to assure that good safety standards are promulgated where there is a demonstrated need, and that the standards are complied with. We intend to be responsive to the needs of the public, the States, and the boating industry. The States and industry have recognized the need for modern safety standards, and the efforts of each have produced an excellent base for further work. As you know, the legislative proposal which we have drafted provides that the Federal government pre-empt the field of regulatory standards in order to achieve uniformity among the States, and between the State and Federal jurisdictions.

The Motorboat Act of 1940 was responsive to the boating situation at the time it was enacted, but the fantastic increase in recreational boats--from some 300,000 to over 8 million--and the many changes in boat and engine design and construction, have made the 1940 rules hopelessly inadequate. I scarcely need to mention the fact that efforts to improve upon these rules have resulted in a variety of requirements which work hardships upon boatmen who move between States, and upon industry. In partnership with all interests concerned, we hope to eliminate these variations and substantially reduce boating accidents through more effective standards.

The Commandant feels that Federal standards should be established only for those particulars of boats and associated equipment where a need for standards has been demonstrated. Let's look at the matter of demonstrated need for a moment. Recently we analyzed our search and rescue assistance reports to determine whether we might find some clues to improving boating safety. We found that 48 percent of our recreational boating assistance cases could be attributed either to engine breakdown or system failures. Since in fiscal year 1969 there were over 31,000 Coast Guard responses to assistance calls from recreational boatmen, and I have no idea how many additional responses were made by State and local forces, it seems pretty clear that system reliability on recreational boats is not satisfactory. In the marine environment, as you all

know, breakdown is always dangerous and frequently is a contributing cause to accidents. With better information as to the causes of breakdown, I am sure that related performance safety standards would substantially reduce accidents, and at the same time reduce demands upon your resources and upon the Coast Guard's search and rescue forces.

In developing standards, at such time as we have the expanded authority, we intend to use the knowledge and expertise of organizations such as the American Boat and Yacht Council that make advisory standards for voluntary use by the industry. The recent signing of the agreement between BIA, NAEBM, and ABYC that ABYC is to be the single broad-based standards making body for recreational boats is a significant step toward improved and uniform standards. In many cases we expect to be able to use their standards, in whole or in part. Federal standards will be stated in terms of performance insofar as practicable. Restrictions on ingenuity in design and manufacturing will be as few as possible.

We have been putting a lot of effort in recent months into revising regulations so that industry can develop an acceptable lifesaving device which people will wear. We know that most people do not wear lifesaving devices routinely. A look at our boating statistics for 1968 reveals that there were 1203 drowning victims. Six hundred and twenty-three were known to have had lifesaving devices available, yet more than 80 percent of these did not use the available device.

The majority of drownings occur as the result of a "sudden" type of casualty in which there is no opportunity or time to get and put on a device. The statistics show that 580 of the 1203 drownings occurred after a capsizing, and 297 followed a fall overboard. There are other "sudden" casualties, such as fires and explosions, which could have precluded victims from reaching lifesaving devices, so that possibly as many as 1,000 of the 1203 drowning victims did not have time to get to and don a lifesaving device before going overboard. It appears that the only solution is to have a lifesaving device on or in hand at all times. At the very least, devices should be worn by all occupants when boating conditions are hazardous, and by children and non-swimmers at all times.

Of course many of you have long recognized this, and have adopted State regulations much more broadly applicable than the 1940 Act.

How can we get people to wear life jackets? Much can be done through education, and perhaps by regulation. However, we hope to make the job easier by providing the boatman with a device which he will want to wear.

You are all familiar with special purpose buoyant devices, and you know that the Federal specifications for them have been relaxed somewhat from the rigid standards for life preservers. In order to get more wearable designs, we do not require that the device provide head support and a positive turning movement. We hope that increased awareness by manufacturers of the flexibility of design allowed by the specifications will result in devices which more people will wear. Manufacturers are encouraged to submit new materials for testing. This

may not be enough. An even more significant increase in wear acceptance may result only from further modification of the present specifications.

Research and development assistance has been available recently in our efforts to determine how changes in design will affect the performance and effectiveness of a personal flotation device. We hope to use data from this study in conjunction with proposed wear-acceptability research to help us develop specifications for improved devices. This could have a substantial effect on boating safety by significantly reducing the number of drownings.

With respect to enforcement of Federal standards for the boat and its equipment, we intend that compliance will be the primary responsibility of the manufacturer. His certification will assure the consumer that a new boat meets minimum requirements. Occasional visits to the manufacturer by Coast Guard boating safety personnel will afford the opportunity to discuss problems and generally to spot check compliance. Substantial reliance will be placed upon reports of accidents and safety violations to identify instances of failure to comply with regulations.

This makes it essential that we have a sound management information system, and we are moving in several directions to develop such a system. The National Safety Council has graciously offered support, and at the present time is testing a computer program for analyzing boating accidents in depth. This system should provide new insights into accident causes, and help to identify critical points in the chain of events leading to an accident.

An information system is only as good as the data put into it however. Our boating accident report form has been improved and we have examined the information required on our Coast Guard narrative reports of investigation. Where there is not enough detailed information available, a supplemental reporting form will be used to gather more data. We have asked the States to assist us in making sure that accident reports are made out and submitted properly.

We are in the process of contracting for studies which should provide us with a firm boating population data base. This will allow us to correlate boating accidents with the boating population as well as to compare the safety of boating with that of other modes of transportation.

As to law enforcement generally, President Nixon has emphasized the critical need for decentralizing government. Historically, the concept of a Federal police force has been repugnant to our people and has been consistently rejected. Our objective, therefore, is to minimize Federal law enforcement actions which directly involve the individual. On waters of the United States where both Federal and State authorities have jurisdiction, our view is that State and local jurisdictions should have primary responsibility for enforcing those safety requirements which are placed upon the operator.

The Commandant feels strongly that boating must be preserved as a recreation for our citizens to enjoy. We do not want to interfere with that recreation any more than is necessary for public safety and we intend to keep our regulation to a minimum consistent with that requirement.

Turning now to our proposed legislation, the program of financial assistance to the States is intended to help the States in the development and expansion of their own boating safety programs, particularly with respect to law enforcement and education. If financial aid cannot be provided to the States where adequate resources have not been available, constantly expanding requirements will no doubt make greater Federal involvement necessary in the future, on waters of Federal jurisdiction, if adequate provision is to be made for public safety. This would, of course, not be in keeping with the President's stated policy I mentioned a moment ago.

However, should funds for a program of financial assistance to the States not be forthcoming, I assure you we will make every effort to assist you in other ways, where you desire assistance. Agreements, especially for law enforcement aids to navigation, provide an excellent vehicle for defining cooperation. Our boating safety detachments in particular can be directed to areas and activities where you see a special requirement for them. The Coast Guard Auxiliary is growing and expanding, and their public education and courtesy motorboat examination capabilities, as well as their operational capability, can be called upon. I see no prospect of our regular forces being expanded materially at this time, but if a redirection of the efforts of our existing forces will improve their usefulness and effectiveness, we are always ready to look together in such new directions.

The status of our proposed legislation seems to be a matter of some interest to everyone. I don't think this is the time to go into details of the draft, since the agenda of this conference does provide for this at other times, but the present situation needs to be reported.

As you know, a boating safety bill was considered by the last Congress. Hearings were held, but no law enacted. The Coast Guard was directed to prepare and submit a new draft. The drafting has been done, giving consideration to every suggestion and difference of opinion, and with every care and attention that the Office of Boating Safety and the Chief Counsel could give it.

At the regional association meetings last spring, I tried to point out that we were providing drafting services, that the final form in which the draft would be dropped into the hopper would not necessarily be that form most desirable to you or to us.

The draft has been under review since prior to the spring conferences, and at this moment its forwarding to the Congress is eminent. Provisions for a program of financial aid to the States are included. This has been the consideration which has kept the draft so long under review.

You are all probably aware by now that an ad hoc group has been considering an alternative draft of a boating safety bill. As I understand it, this action has been undertaken primarily because of two reasons: certain features of the Department of Transportation draft are considered unsatisfactory, and some administrators feel that their views and desires have not been given sufficient consideration and expression in the draft.

I will not at this time argue the merits of this contention. I suspect that an impartial observer would find some room for give and take among all who were interested in the development of the draft. Regardless of that, I am deeply concerned that any State administrator feels that his views have not been considered, and there apparently are strong feelings that this is the case. Accepting these feelings as a fact, then, I assure you all that we have truly done our best to fully consider every question that has been raised, and to incorporate into the draft every recommendation that would improve it. I intend that our cooperation with the States in all matters affecting boating safety shall be the closest and best that we can possibly make it.

As to the NASBLA draft bill, I have only one point to make. It is important--even imperative--to us that a Federal boating safety program, as prescribed by law, be one which has the approval of the Executive branch. We are urgently seeking this approval. My concern is that introduction of other boating safety legislation will further delay the enactment of a law which is so sorely needed and has been so long sought.

We will be ready at any time to discuss proposals for amending the draft during Congressional hearings, and I invite such discussions in order that differences may be resolved to the greatest extent before presenting them to the Congress.

To get on with my report, we all recognize that educating the boatman is a key element of any boating safety program. As you know, it presents a most difficult problem because some forty million people are involved. Even if we estimate that, on the average, only two persons operate a given boat, we are still talking about some seventeen million people who need to know the safety rules and regulations, seamanship, rules of the road, and other skills of the boatman. It is a staggering task, but many thousands of dedicated people are working at it. Indeed, the educational role is one we all share--industry, Federal and State governments--together with the many fine private groups.

In summary, I look at our respective roles in the following manner.

The Coast Guard should prescribe safety standards to the extent necessary to ensure that a safe, reliable boat and associated equipment reach the boatman. The manufacturer should be responsible for building to these standards. For the reasons stated earlier, this form of regulation should pre-empt State and local jurisdictions as their laws might affect the manufacturer.

The Coast Guard should regulate the individual only to the extent that his actions may affect the safety of others, and only to the extent that State and local enforcement capabilities are inadequate on waters of joint jurisdiction. The Coast Guard is not withdrawing from enforcement, and we will continue efforts to cooperate to the fullest extent and to provide enforcement where needed, but the principle seems well established that law enforcement should primarily be the concern and responsibility of State and local jurisdictions.

Regulations pertaining to the environment should be based on the same kind of considerations as those concerning the individual. Zoning, a safety measure for principal use by the States, might, for example, be applied to instances where particular types of water activities could affect the safety of others.

And all of us are concerned with the job of educating the boatman.

I appreciate the opportunity to make this report to you, and I assure you of my strong desire and determination that we all work together for the continuing improvement of boating safety and the implementation of more effective programs.

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