

FLORIDA SEA GRANT PROGRAM

CONFERENCE PROCEEDINGS:

MARINA AND BOATYARD OPERATORS IN FLORIDA

EDITED BY THOMAS M. LEAHY

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MARINA AND BOATYARD OPERATORS
IN FLORIDA

Proceedings of a conference
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Orlando, Florida

Sponsored by:

Florida Marine Advisory Service

Florida Cooperative Extension Service

Florida Sea Grant College

Coastal Plains Center, Wilmington, NC

Edited by
Thomas M. Leahy

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FOREWORD

Florida's location as a peninsula with the Atlantic Ocean on one side and the Gulf of Mexico on the other, and with an abundance of fresh water lakes and streams throughout the state, makes for extensive recreational and commercial boating activity. The strength of the state's economy depends in large measure on the tourist and fishing industries which, of course, are dependent upon water transportation. The importance of marinas in such a situation is paramount.

Yet, it did not appear that the marina industry had been identified as a significant factor which impacts on the economy of the state and local communities. There appeared to be a distinct need to determine the role the marine industry plays in the coastal regions as a focal point of human activity between land and sea. Information was particularly needed concerning the value of marinas to the economy, problems faced by existing marina operators, limiting factors on future marina growth, need for legal and organizational guidelines, and technological and ecological factors affecting marina business.

In an attempt to modify these deficiencies a state-wide conference was planned for April 4, 5 and 6 in Orlando to provide an opportunity for marina and boatyard operators to discuss problems faced by their industry and make a clear statement of such, to provide them an opportunity to openly discuss their problems with representatives from government regulating agencies, and to encourage education and research programs in areas where needed.

The conference was coordinated by the Florida Marine Advisory Program of the Florida Cooperative Extension Service and co-sponsored by the Coastal Plains Center in Wilmington, North Carolina.

This report is designed to summarize the two and a half days of discussions and provide a proceedings to persons unable to attend, as well as to stimulate further discussion and action on the part of interested persons and agencies associated with the marina and boatyard business.

Thomas M. Leahy is editor for the Florida Sea Grant College and the Marine Advisory Program

SUMMARY OF PROBLEMS FACED BY
MARINA AND BOATYARD OPERATORS

Joseph G. Halusky

Participants in the Marina and Boatyard Operators Conference were organized into eight discussion groups to list problems their industry faces. After a 30 minute discussion period, a spokesman for each group delivered an oral report of his group's list to the entire audience.

This is a summary collection of statements and topics identified by the eight groups. They are generally listed in three prioritized categories depending on how frequently the topic was mentioned during the oral presentations.

Category 1 - Most Frequently Discussed Problem Area. Coastal Zone Planning
And Permit Applications

- Time required to get approval on construction permits too long
Only one application form should be needed.
- Too much "red tape" and too many agencies involved in both state
and federal levels.
- On "bottom lands....the state declares ownership and restricts
your use, and yet you have to pay taxes and its on your deed."
- Restrictions on new and maintenance construction in wetland area.
"Government input generally negative."
- Consultant and legal costs high, yet needed to meet government
permit requirements.
- Need clear guidelines on how (and where) to build a marina.
- ✓ -Coastal planning and enforcement agencies not aware of public
demand for marina facilities.
- "Would like to have a clear definition...what Coastal Zone
Management will do to marinas..."(positive and negative aspects).
- Need precise definition of "State Bottom Lands" and their
"Usage Tax."
- State needs to develop dredge spoil areas.

Joseph G. Halusky is the Marine Advisory Agent for the Northeast Florida
coast with office at Whitney Research Laboratory, Marineland, south of
St. Augustine

Category 2 - Problem Areas Identified By Four Or More Groups

A) Insurance Problems

1) Longshoremans Insurance

- Should it be required for marina personnel? Marina office workers too? New marinas?
- Cost too high.
- Should private contractors be required to have special coverage when working around marinas?
- Differences in coverages between longshoreman's and workmen's compensation unclear.

2) Liability Insurance

- Who is liable when vessels collide in marina?
- Who is liable regarding fuel handling on private vessel?
- Legal and engineering definition of "Safe Harbor" needed. Relation to marina operator/owner liability in event of damage, disaster or hurricane.
- Marine product liability. Who is responsible when marine equipment fails, the installer or the manufacturer?
- Rising cost of marina insurance and law suits. Too few marina insurers.
- Specific requirements for Boatowners Liability Insurance unclear.

B) Economic Importance of Marinas

- What is their attractive value to tourism?
- What economic impact does a marina have on a community? The state?
- Marina facilities poorly developed in some regions of the state. Need analysis of marina development needs.
- "Most marina owners and operators find they can't expand because of economic conditions."
- "...there is a lack of available slips statewide..." Politicians and state agencies unaware of importance of marinas to the public.

- effects of competition between public versus privately operated marinas.
- need economic assessment of industry to encourage long and short term financing.

C) Sanitation, Ecological Impact And Pollution Control (Oil Spills)

- Individual marinas not prepared to handle oil spills.
- There is a need for research regarding the impact a marina has on the environment.
- Marine sanitation device and "approved heads" requirements confusing to the public. Need simplified information geared to the public level.
- Guidelines for "adequate" pump out facilities at marinas unclear. Impact on municipal sewerage treatment.
- Inadequate number of pump out stations in Florida.
- State agencies appear to consider marinas "ecologically unsound" and "unproductive".
-water chemistry changes from marina operations needs to be studied so that marina facilities can be properly designed.
- Methods for control of pollutants resulting from boat repair and construction .
- Sanitation facility requirements necessary for marina operation unclear.

D) Design, Construction And Engineering Technical Information.

- Pump out facilities and sewerage treatment.
- design for hurricane and storm protection.
- Channel maintenance methods to eliminate siltation.
- Uses of dredge spoil.
- Dockage and building design which minimally impacts the environment.
- Need research for new materials to avoid the breakdown in steel reinforced concrete.
- "...basic art of marina construction and design is out of date."
"Need new concepts..."
- "...Marina and boatyard operations....basically they are not scientific."
- Training program needed for marine technicians who have multiple-skill

capabilities.

-A better piling is needed.

-Designs for hurricane protection of untrailerable vessels are needed.

Category 3 - Problem Areas Identified By Less Than Four Groups

A) Boating Safety

-Liability question between marina operator and vessel operator unclear.

-Posting of "No Wake" signs and "Speed Limits" in marinas. Are they legal? Who has right to enforce? What "evidence" is needed to obtain a conviction of violator?

-Out of state boaters need to be made aware that they must register their boat, 90 days after entering Florida waters.

B) Legal Rights And Privileges Of Marina Operators

-What rights and privileges does a marina operator receive with the lease agreement with the state.

-Does marina operator have sole proprietorship over marina waters, or merely a custodian, subject to community rules?

-There is a need for a state-wide uniform lease or dockage agreement.

-There should be a uniform work-order agreement, which would protect the marina operator.

-What should be done with abandoned boats?

-Need legal and financial clarification regarding maintenance of a channel which serves several boat yards. Who is responsible for dredging, marking and safety on it?

-Does "Innkeeper Act" which applies to hotels and motels, also apply to marinas? Relates to collection of bills and confiscation of property (boat).

-Does state have responsibility to remove silt which enters marina basin from state controlled waterways?

-Fuel storage tax appears to discriminate against marina operators.

C) Marina Association

-Governmental agencies who develop legislation cannot identify spokesman for marina industry.

- "There is a great need for information transfer and interchange both among marinas within an association and with possibly a marine advisory program."

- "...there doesn't seem to be a feedback to the public regulatory agent for this demand." (On the increasing demand for marina facilities).

D) Conflict With Commercial Fishing

- Commercial fishermen setting nets in marina basins.

E) Security On Premises

- Increase in theft of boats and equipment.

- Legal constraints on limiting access on public docks.

FLORIDA'S COASTAL ZONE MANAGEMENT PLAN

Louis C. Burney
Gary Brosch

Mr. Burney provided a historical overview and discussed the mechanics of the proposed Coastal Zone Management Program.

The Florida Coastal Zone Management efforts started in 1970, with creation of the Florida Coastal Coordinating Council. This legislative action was taken in anticipation of passage of a federal bill regarding coastal management. The pending federal legislation was based upon work of the "blue-ribbon" Stratton Commission appointed by President Johnson in 1966. This commission's report "Our Nation and the Sea: A Plan for National Action" recommended a national program designed to provide mechanisms for encouraging states to get cracking on understanding their coastal resources and achieving better management of those resources for the future.

It was not envisioned at that time that the coastal management effort should be a strictly environmental protection effort. Rather, it was considered to be an "optimum use" program where economic and environmental considerations were brought into balance for the overall benefit of the nation. This legislation, however, failed to pass until 1972, two years later than anticipated.

In the meantime, the Florida Legislature had created the Coastal Coordinating Council, made up of the executive directors of the three state agencies having primary responsibility for coastal management actions. These agencies were: the Department of Pollution Control, the Department of Natural Resources and the Trustees of the Internal Improvement Trust Fund. Later, through administrative action, the Division of State Planning was added to the Council.

The Coastal Coordinating Council was charged to develop a comprehensive plan for the development and protection of Florida's coastal zone; to conduct research into coastal zone problems; to provide an information service to the public; and to coordinate all state agencies' activities regarding management of coastal zone resources. The catch to all these charges was that the Council was purely advisory.

It was an interesting situation, however, that the Council, in spite of its advisory nature, became fairly influential with governmental agencies as well as developers and economic interests. It seems that many of these interests quickly found that by following the Council's advice, governmental red tape would be reduced and permits would be much easier to obtain.

Louis C. Burney is supervisor of the Comprehensive Planning Section, and Gary Brosch is an economist with the Bureau of Coastal Zone Planning, Florida Department of Environmental Regulation, Tallahassee, Florida

During its existence from 1970-1975, the effort involved primarily the technical, economic and legal aspects of developing a coastal management plan. Major emphasis was on trying to gain an understanding of the biophysical environment, the nature of the local economies, what the constitutional problems were in managing the resources, establishing a reliable data base, and providing assistance to various agencies and the private sector.

In the 1975 reorganization of state environmental agencies, the Coastal Coordinating Council was abolished and its staff and functions transferred to the Department of Natural Resources as the Bureau of Coastal Zone Planning. The Bureau pursued the basic legislative charges until July of last year, at which time the legislature transferred the program, again, to the Department of Environmental Regulation.

Some of the confusion over what is being proposed and what is not being proposed is caused by the various publications that have been published as a result of this multiple transfer of responsibilities.

The Coastal Coordinating Council produced some very detailed documents regarding resource management in the Florida Keys, as well as statewide information regarding ownership patterns, land use, support services, marinas, etc. This information was designed to provide local government with a capability to understand what the state and federal resource management agencies were attempting to do and provide local government with the capability to participate in the resource management effort.

The transfer of the program was preceded by this status report to the Governor and Cabinet, explaining the DNR approach to the problem and where we intended to go in the future. Subsequent transfer of the program to DER was accompanied by a ten-month deadline to present a proposed plan to the Legislature. This presented an unworkable situation to DER and certain changes in program approach were deemed necessary.

In October, 1977 DER released this workshop draft, intended to serve as a talking document to get public reactions to the way DER envisioned the program. Workshops were held around the state in December and over 300 written comments were received. The reactions of economic interests were, for the most part, adverse, and I think many of the present concerns are a result of this document.

That is not the program that is presently proposed. As a result of all the public input, most of January, February and March were spent in revising the program to incorporate these concerns. The result was this document that is available in the back of the room for your distribution. This blue document is intended to provide a perspective of how, at this time, DER thinks the Coastal Management Program can be carried out.

This document, however, should not be confused with the legislation. The legislation is what you need to focus your attention on with the Legislature. The blue book will be revised to reflect the legislative mandate.

The bill is not a plan. It is a "management program," where we are trying to increase consistency and predictability of governmental actions, and hopefully do a better job of managing coastal resources.

The basic approach taken in the bill is that we already have most of the legislation needed to do the job. Consequently, the focus is on developing an agreed upon process for achieving consistency between the various programs. The bill attempts to do this by providing a clear set of definitions of the terms we are dealing with, clear statements of intent of what the Coastal Management Program is supposed to do, boundaries, policies, and a process for implementation. These are the five basic pieces.

There are six statements of intent regarding balancing considerations for growth and resource protection, utilization of existing statutes, responsibilities of various agencies, affect of program on existing authorities, DER as the lead agency for implementation, and provision of independent roles for local government.

There are some key definitions such as "conservation areas." The areas listed are, for the most part, areas where the state is already involved to one degree or another under existing statutes.

The next category deals with what are termed "vital areas." These are predominantly the areas which were in the past referred to as "preservation areas" - areas in need of protection because of the benefits they provide to the general public. These include areas such as marshes, coral reefs, beaches, etc., where the state already has the authority to regulate at this time.

The third category deals with "development areas," which include all areas not falling into the other two categories. The maps here do not show the development areas, but do indicate the coastal zone boundary and a generalization of the vital areas. In addition, this map shows the federal lands which, by law, must be excluded from the program. However, federal activities on those lands must be conducted in a manner which is consistent with the State Coastal Management Program.

To give you an overview of the policies, there are a total of eight policies provided in the bill.

The first policy deals with coastal resource conservation, protection and restoration. Basically it states that we shall provide for and encourage growth which is not adverse to coastal resources, shall restore areas where possible, and lessen economic impact thru use of fiscal incentives, property acquisition, and economic adjustment techniques. Private property rights shall also be protected.

The second policy basically states that we shall guide, stimulate, promote and coordinate beneficial development.

The third policy simply says that the state shall protect and improve recreation in the coastal zone.

The fourth policy deals with energy facilities, stating that such facilities may be located in the coastal zone if they recognize the problems associated with cooling waters.

The fifth policy recognizes the water dependent nature of ports and requires primary ports to provide long range plans for expansion and maintenance. It will also be state policy to discourage the development of new ports which require dredged channels in excess of twenty-five feet.

Policy number six says that priority will be given to renewable resources over nonrenewable resources. If a clear choice had to be made between fish and wildlife or extraction of minerals, the fish and wildlife considerations would be given priority.

The seventh policy states that it will be state policy to maintain as near as possible, the seasonal water fluctuations and natural flow cycles into estuarine areas.

Policy eight requires land transportation facilities to be planned in accordance with this act and also provide for safe population evacuation in cases of natural disasters.

As for implementation, each agency is required to review their rules and regulations for consistency, and after review of the findings and comment by DER, each agency must initiate rule making procedures to correct any inadequacies or conflicts.

Enforcement of the act would be through Chapter 120, F.S., which would be used to give DER legal standing to challenge rules of other agencies that are in conflict with the Coastal Management Program.

Participation in the program by local government is purely voluntary. However, if local governments do choose to participate, there are certain benefits which would accrue which would otherwise not be available. The primary benefits would be financial, technical, and legal assistance from the state, as well as having a role in the federal consistency aspects of the program. This could provide local government with legal leverage it did not previously enjoy, but it must be remembered that local participation is voluntary.

To sum up, this blue document is the Department of Environmental Regulation's best assessment at this time of how the program could be implemented after going through the rule review and revision process. Obviously there are many things subject to modification, depending upon legislative actions. The document will be modified to reflect the legislative mandate. The bottom line is that the bill does not propose any new authorities. It suggests a basic framework and set of policies, and asks the various agencies to act accordingly.

In regard to marinas, the Coastal Management Program, by giving special recognition to water dependent activities, will provide a better mechanism

for meeting the needs of marinas. This would primarily occur by providing the ability to take into account special needs, alternatives and economic considerations rather than the purely environmental considerations that now govern.

The anticipated sequence of events is as follows. The bill has been presented to the Legislature yesterday, with a few modifications regarding local government's ability to modify the boundary within their jurisdictions, and also the language on federal consistency.

After the Legislature acts, the program document will be revised accordingly, and then the rule reviews and revisions will take over. Within a year or so the coastal management policy should start being implemented through the rules of various agencies.

The Legislature seems to have several basic concerns such as funding and manpower requirements. In addition, several members have expressed concern over the short time frame for them to review the proposal and the effects on other agencies. One very basic concern is, what happens if the Legislature doesn't do anything? A bill has been prefiled to delay any legislative action on the program for another year, but the Department of Environmental Regulation's position is that the program that has been presented is about the best that can be done with the resources available, and it's time for the Legislature to act.

Gary Borsch then spoke about the Coastal Management Plan from an Economists Point of view:

As an economist, my job is to look at the cost and the benefits of the Coastal Zone Management Program. It hasn't been easy to reach a conclusion.

One reason is that the program has been changing. Each time a draft changes the actual impact of the program changes. There are problems of measurement. What is the value of a wet land? What is the value of a marsh? How do you compare the value of a marsh to the value of a marina? It's difficult and I certainly don't have all the answers.

In looking for answers we focus on the changes and what changes specifically are going to occur with this program. We start out looking at the benefits of Coastal Zone, what benefits the Coastal Zone provides to man, the benefits of fishing and wildlife, water quality. Some of these benefits contribute directly to your marina. Obviously, if you don't have the wet lands contributing to fishing, then maybe not as many people would want to come to your marina and go boating. If you don't have the wet lands contributing to water quality, you might not have as many people wanting to go boating in poor quality water.

But we have to look at more than just the material benefits of Coastal Zone. We have to look at the benefits and the cost of the Coastal Zone Management Program. What is it going to change? It is not going to create

any new regulations. The legislation you have is very explicit on this. It says that the Coastal Zone Management Program should utilize existing statutes, and this act shall serve to clarify the intent of the Legislature regarding governmental agency application of existing statutes.

One of the changes in this legislation is that there are no prohibitions of specific activities. Some of the old draft specifically prohibited commercial development in available areas.

Another issue that used to be in here was the one about property rights. The new program specifically addressed property rights, and says that no matter what happens under this legislation nobody is going to be able to promulgate a rule that takes property without compensation. Even further than that, it says that they should try for some systems, some economic systems, for alleviating or mitigating some of the difficulties associated with the regulations. It's costing a lot to try to lessen those.

There are some specific policies for marinas that I think you should be aware of. Specifically, it says it is the policy of the State of Florida to conserve and protect the natural resources and scenic beauty of Florida's Coastal Zone; and that it should be done specifically by protecting, preserving, and where possible restoring the chemical, physical and biological integrity of the vital areas so as to ensure or enhance biological productivity, fish and wildlife habitat, recreation opportunities and public health, safety and welfare.

Recreational opportunity is now in this policy specifically as something that is to be protected, preserved, and where possible restored; and it's right in there with the biological integrity and biological productivity. It is of equal importance. This program says that it is trying to balance economic development against preservation of natural resources.

Another policy which you should look at specifically is the recreation and shoreline access policy.

It simply says, "It is the policy of the State to protect, foster, ensure, and improve access to and recreational opportunities in the Coastal Zone, including aesthetic use and enjoyment of coastal waters and shorefront areas, for all people consistent with private property rights and with the provisions of this act."

When we get in a little further, you will see how that is going to specifically benefit marinas.

The final one is on resource management. This is the area where marinas get classified, so to speak, as water-dependent use. The whole thrust of the Coastal Zone Management from the beginning of the federal act has been to give higher priority to water-dependent uses. Because of this, early programs prohibited recreational development in vital areas, right on the waterfront. They said it is not really water-dependent. But they said marinas are water-dependent, so they are given priority. Recreational

development is no longer prohibited, but there is still emphasis on higher priority for water-dependent activities, and that's in the resource management policy.

All these together, the way the department envisions the program affecting you, is that there will be no new permits, no new laws; but what they say is that these policies will guide all of those existing rules and regulations and to try to get them consistent. Specifically, it will help local governments when they make their decisions on whether or not to grant you a zoning for a marina. It is interesting that Secretary Landers, Secretary of the Department of Environmental Regulations, at a number of public workshops, gave marinas as an example of one of the industries in the state that was going to be most benefited by the program.

Right now, you go to your local government and try to get zoning for a marina, and they look at it and they are faced with this difficult problem -- and it really is a difficult problem -- on how to get you permitting for a new marina or expanding your existing marina subjectively and not be in the situation to have to grant the next guy that comes in a zoning for a marina. If you give it to one, you need to give it to two or you're not being fair.

But local government, when they do planning consistent with these policies, will look around and see these places which are in a growth situation. They will look at existing marinas and see if it would be best to expand that marina. They'll make some decisions. They'll go ahead and bite the bullet now and make decisions so when it comes time, you want to expand your marina or somebody comes in and says they want to build a competing marina, the local government will have a better long-range plan of what's going to happen with that. They can make better decisions, and they can tell you straight out, with any luck, that yes, you can do that or no, you can't. Sometimes getting a no answer straight out is better than being strung along for two years trying to get permitting when you know they are going to tell you no anyway. It is not to say they are going to do it, it says it's giving us a more comprehensive way of looking at it.

The head of the State Permitting for D.E.R., has said that one of the difficulties they face when looking at a request for a permit to dredge a marina is that one is fine, two may be okay, and three is bad; and they are faced with real decisions of how to accomodate this. They really don't have a procedure now. They have to look at each individual one on its individual merits. They can't look at the impact in the whole estuarine system. If this new law passes, they will be able to look at the whole system. They will be able to make decisions, not strictly based only on the water quality, or only on your particular circumstances, but they will be able to base it on the economic implications of their decision. They feel that if this law passes, it will make it easier for you to get your permits.

In summary, each decision regarding your expansion is a difficult question. Even in Coastal Zone Management, we don't have all the answers, and I don't think we ever will. Marinas don't necessarily represent the wiping out of a wet land that's productive, but the marina itself can be productive and contribute to the natural system.

CONCERNS AND IMPLICATIONS OF THE COASTAL ZONE MANAGEMENT PLAN FOR MARINA AND BOATYARD OPERATORS

This subject was discussed by a panel consisting of J. T. Lowe, Barbara Goss, Bill Miller, Milford Reynolds, Lou Burney, and Gary Brosch. Marina operators Lowe, Goss, Miller, and Reynolds expressed their concerns about the CZM Plan and Burney and Brosch, of the Department of Environmental Regulation responded.

Mr. Lowe expressed concern that the Legislature was being asked to vote on the Coastal Zone Management bill without ample time to study it and to talk to their constituents. He stated that rather than saying that he was opposed to the bill in toto, he preferred to say that he felt that even if it took four revisions it was better to get it right.

Mrs. Goss told the group she was not prepared to talk about the plan as it was the first time she had seen it; that just off hand, a couple of things that bothered her was the interpretation D.E.R. might put on the provisions when they prepared to implement them and also that there did not appear to be any local input and this was important when cost factors were considered. She felt it was obvious that local government was going to have to change their tax basis to make it equitable.

Mr. Miller said he had been involved in permitting for about seven years trying to expand his marina. After being denied and seeing how the Corps of Engineers and the Fish and Wildlife Service felt about filling any marsh land whatsoever for any reason and could care less about economics he said he didn't know how to fight people like that. He had felt Coastal Zone Management was the answer and would help the marina people but now he was confused and could not get anything out of the draft. The document will not help the marina operators as far as he can see and the problem is not going to be solved with this document.

Mr. Reynolds stated he was against CZM. He said the Board of County Commissioners Statewide Association in their statewide conference in Fort Walton Beach two weeks earlier had said they unanimously voted to reject CZM as it had been represented. He said he felt that county commissioners all over Florida were acting in the same manner as he was -- discouraging any formal acceptance of CZM. He said he felt that there needed to be some control over resources however.

MR. BROSCH AND MR. BURNEY THEN RESPONDED BRIEFLY TO THE PRECEDING COMMENTS. Mr. Burney pointed out that there would be no usurpation of home rule since the CZM bill did not ask for any new authorities, and that what they were trying to do was to clarify existing authorities so that they would all be applied consistently. The authorities that are on the books right now at the state level are enforceable. He further said that what DER is trying to do is meet the minimum federal requirements for an approvable program, and that they know minimum was not enough for Florida. DER could regulate marshes and water quality and swamps but one of the big problems is that there are constant conflicts generated at the local level. Zoning is sometimes developed in compliance with local plans but in ignorance and in conflict with what is required at state and federal level. This can result in developers being misinformed on just what permits they may obtain.

The state may say yes and the federal government no and so on. DER wants to try to short-circuit such conflicts by telling local government that if they recognize the State Management Program and try voluntarily to adopt local policies and programs that are consistent with the state program that they will realize certain benefits -- financial, technical, legal assistance, etc. But they don't have to participate if they don't want to.

ROLE OF MARINAS AND BOAT YARDS IN THE TOURISM INDUSTRY OF FLORIDA
AND IMPLICATIONS OF THE FLORIDA COASTAL ZONE MANAGEMENT PLAN
TO MARINE AND BOATYARD OPERATIONS

Jerry G. Melvin

The tourist industry in the State of Florida accounts for some 25 percent of the state's total general revenue, so we must recognize the importance of the tourist industry.

Seven years ago when I first started with Tourism and Economic Development I'd go around the State, and talk to the hotel and restaurant groups, try to get them all together. It's a difficult job getting diversified groups together, but we finally did and got the legislation a few years ago to make a division within the Department of Commerce for the hotel and motel people. Let's say for the tourist industry. Can you imagine how you and I have sat here, how we have let it happen that something that provides the state with twenty-five percent of its entire general revenue and ten billion dollars in business in the State of Florida where we had thirty-two million people that visited this state in the past fiscal year; and you and I sat back and let it be relegated to bureau status within the Department of Commerce where ninety percent of all the facts and figures and the funding and the personnel are federally funded labor programs.

I started working for this in 1970. We finally got up to the division status, and now my bill to create a separate department has been given a little bit of a chance this year by the Governor who indicates he will not veto. The only thing is he wants it to be done just the way he wants it. He's sort of a strong-minded fellow.

We have a tourist industry made up of the hotels and motels, all the groups, but there is a little segment that was little known until a couple of years ago -- the Campground Association. They have a good constructive director. They have actually created three pieces of legislation. It's an organization that's going to be a vital part of the industry.

You can do the same thing. You can literally get involved and let us know exactly how you're feeling on the issues. That's the sad part. We haven't heard from the marine industry except as it relates to a permit here or a permit problem there or as it relates to a fact that somebody is going to charge you a little bit for the use of the bottom lands.

Coastal Zone Management is not going to go away. I took a look at Coastal Zone Management, and I started reading, and the more I read the madder I got; and the madder I got the more confused I got, and then I tried to read that particular plan over, the plan as it relates to the Economic Development. I say that the two couldn't work together. Then I started taking a look at the elements, which incidentally has the growth platform in it. It also has

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House of Representatives, Tallahassee, Florida

impact fees, all of these are in that section there. Then I started going over the marine resource section. That doesn't work with this one, and then you start looking at the coastal setback lines. They wouldn't work together.

Now, there is something wrong with a state as big as the state of Florida that has got what we have and nothing is going together. The biggest mistake the Florida Legislature made, and I believe I am one of the nine that voted against the change, is when we did away with the Coastal Coordinating Council. Now, they did some things I didn't completely agree with, but by and large you could work with them. The way Coastal Management started was basically to get agencies within the state government to get together so we could plan for coastal operations. But, all of a sudden DER got a hold of it. We've got some excellent people within that particular agency.

But, right now I feel DER has the wrong attitude as it relates to Coastal Zone Management. It's not how can we coordinate to plan a goal. All of a sudden it's how can we keep you from doing what it is you want to do, and this is where we are having the hardest time in the legislature, and me particularly in my area where we are growing so rapidly and say we're not trying to rape the environment. We just want to try to make a living on developments we've been paying taxes on all the time.

I have a bill to postpone for one year and everybody is yelling that we might lose a million dollars or two million dollars. How much is two million dollars from the federal government who is going to put enough ties to it that it will probably cost you five million dollars to receive the two million dollars? When we're talking about a total state budget of over six billion dollars, and we hear every day that our Health and Rehabilitative services expenses are a million dollars on services they are not using. I don't care about the two million dollars that we might lose from the federal government knowing that we're going to have two more giveaway programs next year.

So, we'd just move up next year and get another plan then. So, please, if you do absolutely nothing but contact the members of your delegation, the legislators within your area, contact them to make sure they do not vote for Coastal Zone Management.

Coastal Zone Management is but one element in the total plan. How many of you have taken a look at any of the other elements within the entire total plan, the Comprehensive State Plan? Now, if you haven't done it, make sure you do it or make sure your legislator does because it's a horrible thing we're going to do.

Let's talk about something happy just a minute. I'm pleased because the Department of Business is going to have something that -- if we can get it passed this year -- it's going to have a proper image. My committee on Tourism and Economic Development has agreed that we were going to be the advocate for business. We were going to be the program for business. Every other state agency, every other legislative committee, every other bureau and every other thing are all consumer oriented. By that I mean they look at business as being something wrong, something bad, something that you've got to look out for everybody else for. Well, I think the time has come to tell

business to look out for itself. It's a good feeling because the pendulum is swinging back in favor of some good sound business practices. Unfortunately, those of you in business think that when it comes time at election time, all you've got to do is contribute twenty-five dollars and sit back and cuss at us because somebody didn't do what you asked them to.

At election time you're competing against everybody that has anything to do with "Let's protect the environment." Nobody agrees with planning anymore than I do. I love plans if they are reasonable. Nobody believes in that fact that we've got to protect the environment anymore than I do. But when I was a freshman I served on the Natural Resources Committee. That year we had more legislative fact findings and gatherings than we did people, and now the gatherers are about to eat us up. So, I'm saying there has to be a balance somewhere, and if you and I let that balance get out of hand we're in trouble.

Now, we're going to be competing this year with the funds we've got for education and such. Believe it or not, they've got problems. They don't mind contributing money and they don't mind telling somebody who they are going to vote for. But, most of you will say here is ten dollars, put that in somebodys name. I'm in business, I better not get involved. If the shoe fits, wear it a little while. If it gets tight, I want you to change it; and now is the time you can because you have come together and you recognize the fact that as an organization you can get things accomplished. And let me be very frank with you, Milford has done an excellent job in this area of working with the members of the delegations, in working with the power institutions and the industry and others to let people understand and know that Coastal Zone Management is not good for Northwest Florida. And, as a member of the Legislature I say it's not good for the entire state.

You have problems in your industry that the hotel-motel group faces such as not being able to collect when somebody owes you some storage fees or marina fees and you have repaired a boat; and we have approached that in regulating lien laws by making it so that a motel could literally put a lock on the door and that would constitute a lien on the individual for what they owed them. If your problem is of the magnitude you think it is, make a recommendation after this meeting. Let's take it to Tallahassee and draft one. It might be very simple wording of the present lien laws. If it is, we'll draft it and get it back to you.

Another problem is the interface with the other industries and other segments of the tourism industry. Right now in Tallahassee there is a group meeting, and it's composed of all the segments of the tourist industry; and I'm going to give them your address and telephone number so they can also have a representative from your group to sit with them. They meet regularly to coordinate those items of interest to the entire total industry to help keep everybody apprised of what's going on.

This is a good year and we in the Legislature are trying to get involved. You in the marina business have got to realize your aims and recommendations for your segment in the business community. I thank you, Sea Grant, for your industry for getting involved because if we can get every segment of business in the State of Florida to get active and get all of you together there is absolutely no limit to what can be accomplished.

PLEASURE BOATING LAWS AND LEGISLATION

Craig O'Connor

The underlying considerations in any action taken in today's society are the legal ramifications of that action. We have discussed some of these legal ramifications; e.g., product liability, salvage and rescue activities. All matters germane to the marina operator and marina operation.

As we go through life, we're going to be faced with legal problems and legal impact. Unfortunately, there are no absolute answers to those problems. Such is the case with the area of marina affairs; it is a subject that has not been addressed in this country in a sufficiently thorough manner to fully define its legal parameters. However, there is some progress being made.

There is a Master of Laws program in Ocean and Coastal Law at the University of Miami Law School -- a program established in recognition of the unique nature of problems associated with the oceans and marine environment and economy and in recognition of the fact that the laws of land-based activities may not pertain equally to ocean based activities.

The program is training lawyers in the area of marine affairs. I'm one of those lawyers, but unfortunately, there are only a few of us. The program at the University of Miami was originally funded by Sea Grant. It's a broad overview of the legal aspects of marine affairs. Seven of us will graduate from the program this spring and will be trained to deal with the specific problems of marine affairs, hopefully with sufficient effectiveness.

One of the current endeavors of the Ocean Law Program is a proposal submitted to Sea Grant for funding which addresses the legal aspects of pleasure boating and marina operation. Its specific focus is a compilation of existing state and local regulations dealing with marina and pleasure boat operation with a subsequent national workshop being conducted to apprise interested parties of the state of the law and the need for change or expansion.

We have found that there are a number of definitive regulations and a dearth of relevant law on the subject of marina operation or pleasure boat operation. It should be noted, however, that Florida has adopted boating legislation which is in the forefront of pleasure boat regulation. Unfortunately, many pressing issues are not resolved by Florida's Boating Act.

One such issue was brought up previously and amplified by Mr. Frank of the National Hurricane Center. What are the legal ramifications of hurricane preparedness and evacuation? There is no legislation in this country that I am aware of which addresses this particular situation. At present the questions will be answered after the fact; through civil or criminal litigation. Clearly an undesirable means of resolving issues of such magnitude.

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In conclusion, I would like to digress from the question of law to an issue more basic to this gathering -- whether to organize into a cohesive group for whatever purpose. Because of the political framework of our country, I would like to recommend that you do seriously consider organizing at least for the purpose of seeking a resolution to the questions we have discussed here. It is my belief that a common voice is necessary to effectively demand a resolution to political and legal problems; particularly if they are to be resolved prior to their creating irreversible effects.

Organization is an effective manner of getting things done. We have covered a large number of relevant legal questions here -- questions without answers. If those questions were addressed to the proper authority in a unified voice by those most concerned, answers would be forthcoming.

FUNCTIONS AND RESPONSIBILITIES OF POLICY, ENFORCEMENT AND REGULATING
AGENCIES. STATE AND FEDERAL: REVIEW AND CLARIFICATION.

This panel was composed of Walt Wheeler, Bill Stimmel, Cliff Willis,
• John Hall, and Lt. Patrick Shuck.

Mr. Wheeler, Dredge and Fill Supervisor in the St. Johns District office, pointed out that their jurisdiction applied to submerged lands and transitional zones of submerged lands whether it be navigable or non-navigable. He further explained, as a matter of historical background, that dredge and fill was initiated in the Environmental Trust Act on state and sovereign lands and navigable waters in the State of Florida. Prior to the Reorganization Act in 1975, there were a number of organizations involved in the legislation of dredge and fill. The Trust Fund established a new agency and the Department of Application Control was formed to license under this statute. Due to the complexity of securing dredge and fill permits at the time, the Legislature saw fit to reorganize by combining the Department of D.E.R. and H.R.S. Currently, jurisdiction with DER applies to navigable waters of the State as defined in Chapter 174. That definition forms the jurisdiction of his office.

He explained to the group certain exceptions that are applicable to marinas and explained the application forms for permits. He urged any of the marina operators who were contemplating expansion that would involve DER permits to get in touch with his office to discuss the specific concept in order to try to pinpoint any future problems.

Mr. Stimmel, Department of Natural Resources, Dept. of Resource Management, and the Bureau of State Lands, spoke to the group on the aspect of state bureaucracy regarding the regulation of marinas. He explained the procedures required to obtain a submerged land lease when requesting a permit to occupy lands belonging to the State of Florida. The charge to people who preempt the use of state lands is two cents a square foot or a minimum of a hundred dollars. Very briefly he explained that there may be a public hearing involved during which the applicant as well as the public may comment. Information is gathered, a report written, recommendation made to the governor and the cabinet and if they approve, the lease is granted.

Colonel Willis, head of the Division of Law Enforcement Marine Patrol in the Dept. of Natural Resources covered briefly the functions of that division plus the Division of Administrative Services which has responsibility for keeping the records pertaining to boat registration and title transfers.

The Bureau of License and Motorboat Registration in the Division of Administrative Services is responsible for the registration and titling of all boats as required under Chapter 371, F.S., and the issuing of licenses, such as Seafood Dealer, Non-resident Fishing and Boat, Shrimping, and Sponge. The Bureau establishes procedures and instructions for county tax collectors who serve as agents of this department in the boat registration program. Among its functions, the Bureau files applications for title, boat registration and transfers. The present computer system for storing and compiling boat registrations is being analyzed and our hope is to acquire, in the near

future, a system that will enable us to keep a more up-to-date accounting. The division also administers the distribution of funds derived from boat license sales to the counties for boating improvements.

The Division of Law Enforcement has the primary function of enforcement, education, protection and preservation of our state's natural resources. The Division also has responsibility of enforcing Chapter 371, F.S., relating to boating safety regulations, and accidents. All accidents are reported to the Coast Guard and to the various sheriffs in the counties where they occur.

This division is in the process of reorganizing, placing the eleven Marine Patrol Districts under the direct supervision of five Region Supervisors to be strategically placed around the state. Each regional office will house the Region Supervisor, a Safety and Education Officer, and one to three investigators.

About a year and a half ago the division began developing a program to deal with the problem of stolen boats and marine equipment in Florida. This illegal activity involves fraudulent titling, modification of boats, and insurance fraud. Organized crime is involved, and to combat this problem a team of investigators is being organized to assist marina operators and the boating public in deterring this criminal element. Work is progressing on creating stronger penalties for boat thefts, and title and boat registration manipulation and falsification.

Another area of interest to marina and boatyard operators would be that of oil and pollutant spills, how it affects them, and the proper steps to take in the event of a spill.

Chapter 376, F.S., known as the Oil Spill Act, was enacted by the 1970 Legislature and conferred upon DNR the power to deal with the hazards and threats of danger and damage posed by pollutant spills.

Shortly after the Act was passed, a temporary restraining order was passed by the U. S. District Court enjoining DNR from enforcing it. In July of 1973 the restraining order was officially lifted, and the 1974 legislative session passed Chapter 74-336 increasing the number of deep water ports from the original eleven to fourteen and expanded the duties of the department in relation to the enforcement of this Act. Registration requirements in 1970 required that any facility capable of transferring a pollutant across coastal waters be licensed, accounting for 966 licensed terminal facilities.

Chapter 74-336 requires anyone transferring pollutants across water of any kind to be registered. The Cabinet passed rules and regulations in August 1974, requiring facilities to maintain equipment, either personally or by contract, capable of containing and removing any spill they may suffer. This law also requires that these facilities be inspected at least annually for these requirements and be reinspected immediately after a prohibited discharge.

Chapter 74-336 levied an excise tax to be paid by each registrant for the privilege of operating a terminal facility and the handling of pollutants. The excise tax is two cents per barrel until the fund equals or exceeds \$35,000,000. The tax forms are mailed out by the Department of Revenue to all registrants with a capacity in excess of 250 barrels monthly, and registrants with less than 250 barrels semi-annually.

Creation of the fund is to provide a mechanism to have financial resources immediately available for cleanup and rehabilitation after a pollutant has been discharged, to prevent further damage by the pollutant, and to pay for damages. Chapter 74-336 provides that any person claiming to have suffered damages as a result of a discharge of pollutants may apply for reimbursement for damages within twelve months after such damage is incurred. The Coastal Protection Trust Fund is absolutely liable for reimbursement in the amount of damage suffered as a result of the discharge. DNR provides the damaged party with a request for reimbursement form upon request. Division of Law Enforcement personnel are also responsible for obtaining financial security in lieu of attachment of a vessel on-site of each spill in the amount of total cost of cleanup and estimated cost of damages. This provision protects the state from damages that may arise from the spill of which the fund could otherwise be liable.

Colonel Willis also discussed possible coming legislation, especially changes in boating laws and manatee protection.

Mr. Hall, chief of the Southern Permits Section of the Corps of Engineers in Jacksonville, explained that the part his office played in the regulatory program was two-fold: to insure navigability of navigable waters for transportation involved in interstate commerce; and environmental protection. He pointed out that their jurisdiction stemmed from basically two pieces of legislation -- the Rivers and Harbors Act of 1899 and the Federal Water Pollution Control Act and the Amendment of 1972, and explained how the provisions of this legislation were applied.

He explained that under the Rivers and Harbor Act, permits are required for any work on or over or under navigable waters. For example, permits for marina structures. As far as the Corps of Engineers is concerned, the word navigable, by definition means waters that are or can be used to transport interstate commerce and the Corps has jurisdiction in those waters up to the ordinary high water line. In deciding whether to issue a permit the Corps goes through a public interest review and looks at a number of factors in trying to determine whether or not the issuance is in the interest of the general public.

The other portion of the Corps of Engineers regulatory program involves permits for placement of dredged or filled material into waters of the U. S. and they are especially concerned with wetlands. U.S. waters are all waters in the U. S. under the new Corps regulations. This lists lakes and isolated lakes less than ten acres in size. It includes all tributaries of all rivers and streams up to the headwaters. Wetlands are those considered to have natural resources such as aquatic vegetation, mangrove swamps, or obvious salt marshes. Some kinds are not obvious to the casual observer.

In evaluating requests for permits the Corps considers whether the project is constructed in such a way and in such a place so that it causes the least environmental damage to any particular site. Also, there must be convincing proof that there are no practical alternatives to the construction. Finally, the project must be water-oriented.

The procedures are set up to avoid duplication and to speed up processing of permit applications.

Lt. Shuck, Coast Guard in Miami, explained that he worked in the Marine Environmental Protection Branch of that office. He explained to the group the pollution laws in the Seventh District which they are charged with enforcing -- the Seventh District encompassing South Carolina, Georgia, Florida, Puerto Rico, the Virgin Islands and the Canal Zone. The main law under which they work is the Federal Water Pollution Control Act of 1972 which prohibits the spilling of oil or hazardous materials into the navigable waters of the U. S. in a harmful quantity. In a situation like this the Coast Guard is taxed with assessing a civil penalty to every violation of the Act. A harmful quantity amounts to a sheen on the water.

The civil penalty for spilling oil into the water is up to \$5 thousand for each violation and \$10 thousand criminal fine and/or a year in jail for failure to notify. In addition, violators are liable for all cleanup costs in connection with the spill. There are other considerations that the Coast Guard has in mitigating fines, which are used in cases like a boat sinking. The gravity of the violation is considered as well as the ability of the person to pay and the size of the spill.

On the matter of sanitary devices (MSD), the Environmental Protection Agency published standards for regulating the design of MSDs and set up a timetable for elimination of discharge of untreated wastes into the U. S. waters. This regulation requires that once a timetable is set up, if you have an MSD installed in your vessel, it must be Coast Guard certified. Basically, there are three types. Type one is a basic flow through MSD. It has a chlorinator which has the standard of no visible solids. Type two MSD has a stricter requirement. Type three is a holding tank.

On being questioned about enforcement Lt. Shuck admitted that due to higher priorities, checking MSDs was quite low on the list but the requirement is still there and he said the Coast Guard is trying to educate the public.

PRODUCT LIABILITY IN MARINA AND BOATYARD OPERATIONS --
LEGISLATION, REGULATION AND GUIDELINES

Lt. Comdr. Jack Lang

The Standard Branch covers most of Florida, South Carolina, and Georgia, and is primarily concerned with manufacturers' compliance with federal regulations. Visits are made to all the boat manufacturers at least once a year to insure that they are up to par on Federal Safety Standards and iron out any problems they have understanding them. There are about 550 manufacturers in the three-state area ranging from little guys building one or two boats a year up to manufacturers who build thousands each year.

Another area the branch is responsible for is defects. These investigations are generally triggered by a consumer complaint about a boat or associated equipment. Investigation is made of each complaint for noncompliance with Federal Safety Standards or a possible safety related defect. About 90 percent of these complaints turn out to be dissatisfaction with the quality of work on a boat or a misunderstanding by the consumer as to what is covered by Federal Regulations.

Basically, there have been three federal acts of legislation that pertain to boating safety. The first one in 1940, called the Motorboat Act, established requirements for lights, ventilation, and a few other things along this line. Most of that act is still in effect, however, it primarily covers operator requirements.

Then in 1958 there was a Federal Boat Act that established standard requirements for the numbering of boats and set up coordination between the state and federal government, things along this line. Most of that act has been repealed by the Federal Boat Safety Act of 1971.

The Federal Boat Safety Act of 1971 was more comprehensive than the other two acts. It established assistance for the states from the federal government for boating safety programs, established manufacturer's requirements and authorized penalty procedures among other things.

It is very important that marina operators be aware of these regulations that apply to manufacturers. If they modify a boat or install things on a boat that modify it, they may be considered the manufacturers by the Coast Guard. Therefore, they need to be aware of the regulations to make sure these things are installed correctly.

Another thing a marina operator can get involved in is a recall campaign conducted by a manufacturer. If his inventory contains boats or items listed on a noncompliance or defect campaign by the Coast Guard, those boats or items

Lt. Comdr. Jack Lang is with the Coast Guard in Miami, Florida

cannot legally be sold until the reason for the campaign has been eliminated. This could leave him with quite a bit of space and/or money tied up until the manufacturer comes up with a remedy. If the manufacturer happens to be a small builder and decides to go out of business rather than do the campaign, the marina operator is left with no choice but to correct them himself. What this all boils down to, is being aware of the regulations and knowing whether or not the products you sell do comply.

One Federal Regulation that applies to boat manufacturers is the HIN's or Hull Identification Numbers. Every boat that's sold must have an HIN on it and the HIN must be in the correct format. The first three letters in it will be the manufacturers ID code. It tells who built the boat. The next five are serial numbers and the last four tell when the boat was built.

The second Federal Standard is certification of compliance labels. This is the manufacturer's certification that his boat complies with all federal regulations. If the marina operator doesn't know anything about the regulations, he won't know whether the certification is correct or not. The manufacturer must also display capacity information on a boat that's under 20 feet. Some of the builders will overrate their capacity drastically. Once they overrate it, the boat may get involved in a recall campaign.

Safe loading standards are along the same line. It is necessary to be aware of them to know whether the law is being complied with.

Horsepower rating is another standard that is often violated by the smaller builders. They may want to recommend a certain engine for their boat, so they will rate it for that engine even though it may be 20 horsepower more than the boat can legally carry.

Level flotation is another standard which becomes effective in August. This is going to be a big one as far as manufacturers are concerned. And if they don't do it right, it's going to involve recall campaigns. If a boat fails level flotation, it's likely going to have to go back to the manufacturer or the marine dealer to be fixed.

Since last August, the fuel and electrical standards have been phased in. These standards govern the installation of the fuel and electrical systems in gas powered inboard boats. They do not apply to outboard or diesel boats.

This then is a quick summary of the current Federal Safety Standards. Since a marina operator could be considered a manufacturer in some cases, it is important to have a working knowledge of the regulations that apply to manufacturers.

Lt. Comdr. Lang listed his address and phone number as follows so that the marine operators could contact him if any questions arise later. Commander, Seventh Coast Guard District (bc), 51 S. W. 1st Ave., Miami, FL 33130. Phone: 350-4342.

PRODUCT LIABILITY -- THE LEGAL POINT OF VIEW

Leonard C. Jaques

Products liability has changed since its inception twenty-five years ago or thereabouts. Through usage, it has come down to mere product liability. By concept and by legal principle, it was created long before that. It was created, indeed, not long after the Battle of Hastings. All of our law is based on English Common Law with the exception of maritime law. Although, the maritime law in certain spheres has borrowed from the Common law; but the matters with regard to products liability really, from the point of view of either a manufacturer or a repairman or those who are construed as putting together the engine product design and manufacture, fall within this body of law that we just simply throw into a hodgepodge and call product liability.

Now, the aspect of liability is simply reduced down to the bottom line word meaning care. In all segments of our society, whether it's an unemployed person driving an automobile down the street or whether it's a highly skilled physician performing brain surgery, or whether it's a lawyer involved in some probate litigation, or whether it's an architect who designs a house or some other kind of structure, or a designer of a product that we use in our kitchen, or those who are involved in designing boats or any kind of product the only imposition that our society has is a standard of care to be followed. Now, if you allow such a concept of product liability and allow those tales of woe to deter you, you'd never get out of bed and you'd never open up the door of the marina. We're just commencing to cross that threshold insofar as imparting knowledge to the marina operator and to other in the maritime industry. But the imposition of care is based on theoretically reasonableness in its application.

Now, when you weigh those words, reasonableness in its application, then you've got a lot of latitude for concern, and there are certain factors with regard to product liability that all of you ought to be concerned about. I'm going to tell you a few little things that happen.

Where there is a products case filed, the marina operator, the boatyard operator, is not the target. Lawyers speak in terms of targets, target defendants, and generally where you are involved there is a bigger target in there somewhere. It's that big target that they go for; and they go for the jugular vein there, not you. After all, you're the small marina operator. One thing you can't do in such litigation in a federal court, and in any instance you would be in federal court, is mention insurance.

Of course, the public is no longer duped by the fact that insurance not being mentioned in a court of law doesn't mean necessarily that you are going to fall victim to any judgement. The juries realize that you won't, but the

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fact is that you are brought into many cases where you are not culpable because of the fact that the plaintiff's lawyer doesn't want to stand up and point to an absent defendant.

If there are circumstances where you fail to live up to certain obligations set forth in the Act, it's just negligence per se, the omission to act in accordance with the regulation or the statute. You can see that, for example, they say if a boat runs down somebody, they say the person who ran down the person in the water -- and the water skier doesn't have life jackets in the boat -- now, the Boating Act of 1940 says you have to have life jackets in the boat. Well, failure to have life jackets in the boat really had nothing to do with the violation. So, you can see that this could be in effect called a violation.

As far as the Boating Act is concerned, there has to be a violation in connection with the damages that resulted. But, I would say where you make modifications that the Coast Guard would deem it as if you were the manufacturer.

Now, of course, remember this: The Coast Guard making a deeming is not a damning situation because the Coast Guard can deem and government agencies can do all kinds of deeming, but you see, when you respond in civil actions you respond to the standards set up by a court of law and those standards go back to reasonableness. In other words, what is reasonable under the circumstances.

One of the things you need to know as a marina operator engaged in boat yard activity, is what is a dangerous instrumentality. In other words, more often than not you're going to be involved in working with somebody else's product that you didn't design and that you didn't manufacture and that you didn't test. You're going to be involved with this product when there is a breakdown.

There are times when you might be well advised to consult your own attorney because you might see that there is a clear and present danger in the unleashing of that product. After all, it came to you and failed. It came to you because of failure, and you're going to do something with it. You may have ingenuity and design qualities, but if you put a design on something that's already bad, it's like throwing good money after bad. What it is, you see, is something inherently dangerous. You've got two alternatives. You can leave it alone or you can take it and go to your attorney and see if you cannot get a submitted disclaimer with an acknowledgement of the user and although they may have limitations, at least it's a step towards your protection. I think that your attorney can make you up a number of these acknowledgements of disclaimer, and I believe that this would enable you to rest with reasonable assurance of protection.

There is this matter of certification -- certification of a boat by a marine service, or by the manufacturer, or if the U.S. Coast Guard gives it certification. Understand that those certifications are not exculpatory. They do not allow you to walk away recognizing that there is no liability. The thing here is that the certification of a government agency if of dubious value where civil exposure of liability may be concerned.

As for insurance, you will be hearing more about it from other speakers, about ways you can resolve your doubts. One of the things that you do when in doubt is insure to the hilt.

INSURANCE NEEDS FOR FLORIDA MARINA
AND BOATYARD OPERATORS

Cindy Rush
William O'Brien

Miss Rush spoke first to the group concerning the marina operator's liability policy. This policy, in addition to protecting the operator's exposure to property damage to the third party also provides him with total defense and cost of defense.

What are the exposures is always a question. Every time there are problems facing the courts there is the question of where the operator's responsibility begins and ends. The marina operator's liability policy per se covers property damage and very plainly excludes bodily injury or death.

He can be accused of negligence for the most minute circumstances and nine times out of ten he will lose because he is holding himself out as a service to the public without an insurance policy to cover his defense and his property damage. He could also go out of business very quickly.

The degree of coverage is up to him. It is his responsibility to constantly maintain coverages that will adequately protect him. His insurance agent will be more than happy to help. Insurance agents are always happy to sell more insurance but when he's saying that the operator is not adequately covered he's saying it for a purpose -- not just to get the additional premium.

Two things to remember: Keep in mind the value of the property and what exposure is there; what risks. Secondly, consider always the bodily injury exposure from both the public and employees.

Mr. O'Brien then continued the discussion of insurance.

All businesses today need certain basic insurances, and Marinas and Boatyards are no exceptions. Coverage on a fixed property, including buildings, docks, dry-docks, and railways is readily available against the perils of fire, lightning, windstorm, etc. Flood coverage, at a fairly high cost, can also be obtained. Associated coverages, such as rents and business interruption, covering loss of income and additional expenses, and Accounts Receivable insurance, covering lost records and uncollectable income are also available.

Comprehensive General Liability protects the Company against third party liability for bodily injury and property damage, but because of water craft exclusions and exclusion of property of others in care, custody, and control, other marine coverage is necessary. Here boat or ship repairer's liability can be purchased to cover primarily loss or damage to boats of others undergoing repair or awaiting redelivery.

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William O'Brien is with Marsh & McLennan Insurance, Miami, Florida

Marina Operator's Liability covers boats in custody of the insured for repair, wharfage, dry storage, fueling, etc. If marinas or boatyards build boats, they should carry Builders' Risk Insurance against "All Risks" including liability arising out of that exposure.

The more difficult and expensive coverages which today are becoming increasingly necessary, are Product Liability and Completed Operations. Because of increasing prices there is even consideration of government intervention to subsidize or provide these. They cover the liability of the manufacturer, the vender, or the installer of equipment for modification and continue after installation when claims for bodily injury or property damage most often occur. They are now available on a more limited basis, usually "Claims Made" meaning that both the incident which inspired and the claim itself must occur during the policy term.

The Longshoremen and Harbor Worker's Compensation Act first passed in 1927, but modified many times since, provides for the liability of the Maritime Employer to protect his employees against accidental injury, including injury arising out of the willful act of the third party because of the employment. The two basic criteria are that the person injured be an employee or someone hired by the master, and that the injury take place on or near navigable waters. In 1972 the Act was extended to a broader definition of anyone engaged in maritime employment. Navigable waters was expanded to include any area adjacent to the water. Lack of standardization among the states' statutes caused the definitions to be broadened. In 1972 the law removed the employees' right to sue the vessel owner for unseaworthiness, but took away the vessel owner's right to recover from the stevedore for failure to perform in a "workman-like manner" for loading or discharge.

With respect to the building or repair industries, the definitions became blurred and distinction of vessel size was obliterated. The extremely high benefit scale for maritime workers and lack of a proper cap on the disability benefits have presented problems. Workers are encouraged to malingering and not return to work. Definition of who falls within the maritime area must be clarified by the Department of Labor and the failure of the U. S. Courts to enforce this are a problem. Inconsistency in court decisions muddies the water. Boating Industry Associates vs. Ray Marshall, in the California courts has removed Builders and Marinas from jurisdiction of the act, but other courts have failed to confirm this decision. Because of boat building and repair industries have been removed from the adjacent areas, its employees should probably also be removed from the Act.

Many insurance agents have suggested to their clients that they should ignore the act, and not declare workers in that category. However, any employees who follow that guidance will find himself possible subject of unnecessary and sizable lawsuits, and subject to possible time monetary penalties.

Albert J. Millus noted Workmen's Compensation authority and executive director of the State Insurance Fund of New York told a Congressional subcommittee last September that he had a number of recommendations. Besides

five administrative changes and twelve statutory changes, he would suggest that: (1) Escalation of the benefits be limited to 4 percent of the national weekly average wage. (2) Institution of a mandatory impartial Physicians Review Board. (3) Elimination of the Benefits Review board to allow direct appeal to Federal Circuit Court of Appeals.

One possible solution to the problem at a more reasonable cost is the establishment of maritime trusts for many small employers. These solutions are being sought by the insurance market today through forward looking insurance brokers, but until such alternatives are finalized the continuing high cost will be a problem for maritime employers. Hopefully, a decision will be found in the next several years.

CHANGES IN YACHT BROKERS LICENSE IN FLORIDA

Alex Balfe

Many years ago, we formed the Southeastern Yacht Brokers Association to have some type of association to identify ourselves, protect our own industry, and give it more status. We were plagued in South Florida with people who called themselves brokers, who had no place of business. Their reliability was questionable, and they were hurting the entire industry. There is nothing wrong with being a yacht broker. We are recognized throughout the United States as professionals because this is one of the centers where people come to look for boats.

After we got our association together, we went to the State and asked them to give us a Yacht Brokers Act. They did and we explained to them that there would be money forthcoming to the State and there is now in excess of \$150,000 laying in the State Capital Fund; and it's there for what purpose, we don't know, because we have had very little results from it. Now, the act will be dead on July 1, and the State, as an explanation of this, says that we have the Yacht Brokers Act primarily to protect our industry. We thought when the act was first started that it was to protect not only our industry but to protect the customer we dealt with. Now, the State says no claims or very few claims have come into them from the consumers indicating that the yacht brokers, the Southern Yacht Brokers Association, have more or less policed themselves.

The State also states that this isn't a necessary function of the State of Florida. It states that we're here strictly to improve our own image. That's true. Just think, Florida is still to some people in the North, a frontier state, and they feel that doing business with a broker who is just a nebulous character has to be done with a little bit of aloofness because he may take the deposit and put it in his pocket. That has happened, and it may happen again. Now, the very fact that the State has seen fit to get rid of the Yacht Brokers Act doesn't mean that we're going to stop. We're still going to have our Southern Yacht Brokers Association.

If the State can't -- won't do it, then we'll just have to do it. We'll have to elect people in Tallahassee to recognize the fact that a people can get together honestly and ask for protection from the State of Florida whether the State believes this or not. Some of our Legislators do believe we are right, and they have done everything they could to keep us from going down.

Alex Balfe is with Merrill Steven Yacht Brokers, Miami, Florida

We have had some very, very serious complaints; and we have handed these to the State of Florida. I don't recall but one visit from a State man, and it was a year after we sent in the request to look into something. Another thing that they have left absolutely open is the fact that we were declared a dealer and we collect a 4 percent sales tax for the city every time we sell a yacht for the State. Does this mean that by the act being closed that we are no longer able to collect a 4 percent tax?

Another thing is that we had a problem in South Florida of selling a boat to a man whose situs was out of state. For example, he may have a situs in Ohio, and he may want for many reasons to pay his tax to Ohio. At that time we had to take the boat to Bimini to make the transfer so he could take the boat out of the State of Florida as quickly as possible and far away from the boat dealer so that the State of Florida got nothing. We went to the State of Florida and had the law changed so that that man could have the transfer title made in Florida and have his 90 days to have his boat done over, and then take his boat out of the state. Now, this has meant millions of dollars to industry, not just to the yacht brokers. For example, a man in Ohio paid \$150,000 for a traditional yacht. He spent almost \$1 million rebuilding it. He paid 4 percent on what he spent on that boat. If we hadn't had the provision that we as yacht brokers entered into a law, the State of Florida would have lost \$40,000 in 4 percent taxes for that work.

I think, frankly, that the State is forgetting the fact that we have and we did form an act to protect not only the yacht broker but the consumer.

But we're certainly not giving up. We're going to make our Southern Yacht Brokers Association just as active as we possibly can. We're going to make it as difficult for a man to become a member of our association as we possibly can.

CURRENT TRENDS IN MARINA DESIGN AND IMPROVEMENT

Dave Kennedy

Our company home office and manufacturing plants are located in Oklahoma and we have licensed engineers, manufacturers and general contractors in most of the forty-eight states. We cover the United States, Alaska, Hawaii, South America. We're currently in Australia and are looking into things in Japan.

Several years ago we found we needed to come up with something that would help the boating industry so three years ago we decided to work on dry storage facilities. Since we manufacture floating restaurants, repair buildings, and things of that sort, one of the engineers came up with the idea of building a floating dry storage building. This is what we came up with -- a building approximately 100 feet wide, 320 feet long, 48 feet high. It holds from 340 to 700 boats depending upon the length of the boats and weighs two and a half million pounds. It is in accordance with the Southeast Florida Building Code with an overhead crane system instead of the forklifts you would normally associate with dry storage.

The crane system is designed to elevator standards because the individual rides with it. He can pick the boat up out of the water, travel down through the building, and put it in a slot a lot smaller than you can with a forklift because he's looking down the keel. In this way more boats can be jammed into a space rack system. The system is all aluminum and adjusts to fit the needs of the marina operators;

We do not use the long rail that runs down the width to set the boats up. We put slots on the back of the boat, lay the bow on the front and let the structural engineering of the boat support itself.

The crane, with an efficient operator can travel the length of the building and back three times faster than a normal forklift because it does not need as much space to turn around.

We have come to the conclusion, from talking to potential customers, that putting boats of 28 feet and under on the water is becoming too costly. So this is designed for 28, 24 and 22 foot boats and smaller. The overall income of the building drops a bit if you include larger boats unless you increase the rental rates. Based on rental rates of \$2.50 to \$3.00 a foot, this building should pay for itself in five years depending on the configuration of the racks.

We are preparing a completed set of specifications and calculations to be submitted to the Corps of Engineers and all the other people who have some bearing on the issuance of permits. We don't think there will be many problems because already we have tentative permission from the Corps of Engineers. We now have to get with the state.

Dave Kennedy is with MecoMarina, Inc., Atlanta, Georgia

ECONOMIC BENEFITS OF MARINA OPERATIONS

Robert B. Ditton

When I began my research in boating and marinas in Texas, I found that certain basic data systems were missing. For example, there was no inventory of marinas on the Texas gulf coast. I had no idea of where they were located, what services were available, and what problems faced the industry (if, in fact, there was an industry).

As a result, in 1975, we undertook an overall problem analysis of coastal marinas with modest funding from the Texas Agricultural Experiment Station and the Texas A & M Sea Grant Program.

Our goals were to identify problems, the dimensions and form of the industry and its economic impact. We wanted to establish an information base relative to boating activity in Texas and its economic importance. We wanted to learn how private and public sector interests interact and impact on each other. There are many myths about marinas that have developed over the years - in Texas and elsewhere. We wanted to put some notions like high turnover and windfall profits to the test to see if they stand up.

Before any information or data could be gathered we needed to know how many marinas there were and where they were located on the Texas coast. To accomplish this, we worked closely with the Texas A & M Sea Grant marine agents - they know the area and many of the operators. We identified 66 marinas with approximately 5500 wet slips on the Texas coast. This part of the study resulted in an inventory document (Crompton, Beardsley and Ditton, 1976). This document was a means to an end for us. For many marketing firms, it has been directly useful in conducting marina feasibility studies.

After our marina inventory was completed, we met with all of the marina operators along the coast. In addition to personal interviews with the operators, we met with real estate agents, biologists, and government officials. Since our study was not primarily concerned with collecting qualitative data (remember our broad goals), our data base was limited for an economic impact assessment. We did not look at cash flow through marinas nor did we apply regional multipliers. In our macro approach to economic impact, we investigated 1) the number of people employed, 2) their wages and salaries, and 3) the gross volume of marina business. While these don't tell us everything about marina impact, it's a good place to begin with a modest budget and it's better than nothing. We recognize that these measures are not necessarily the most appropriate measures of economic impact. However, with the information we had available, they were the most useful indices we could derive.

Robert B. Ditton is a Marine Recreation Specialist with Department of Recreation and Parks, Texas A & M University, College Station, Texas

1973 U.S. Census data showed that there were 354 employees in the marina industry employed by 45 marinas in Texas coastal counties. These employees were paid approximately \$2.62 million in salaries and wages or \$7,430 per employee. Through careful fieldwork, we found that Census data generally under-represented the number of coastal marinas and the people they employ. We identified 597 employees at 66 marinas. Making some assumptions about owner-operated salaries, we estimated total personal income derived from Texas coastal marinas to be \$5 million. For these estimates to meaningfully reflect economic impact, we need to know how these monies recirculate through the local economy. Studies done at the University of Rhode Island (Rorholm, Lampe, Marshall and Farrell, 1968) indicate this multiplier is likely to be around 3 (\$1 generates \$3 of spending in local area) but clearly this varies from place to place. Taking a macro look, we did not probe multiplier effects.

Because slip rentals on the Texas coast range from \$30 - \$60 a month and because the percentage volume of turnover received from wet slip rentals ranges between 15% and 50% (depending on the range of other services which the marina provides), we made three estimates of direct spending at marinas: 1) a minimum estimate of \$4.32 million; 2) a best estimate of \$10.1 million; and 3) a maximum estimate of \$28.8 million. No indirect spending is taken into account. Gross volume of marina business in Texas was probably somewhere around \$15 million in 1975.

In conclusion, I want to leave you with some points regarding the economic impact of marinas:

1. You must know how many and where your marinas are located. An inventory document (with periodic updates) is critical - a necessary beginning to an information system and to demonstrating your importance.
2. You must have a particular policy arena in mind before you undertake an economic impact study - this determines your coverage
 - local decisionmaking
 - statewide land use and water access planning
 - or if you are interested in making an input to coastal zone management, you must be able to focus on or separate out the coastal marinas.
3. As marina owners and operators, you must be cooperative in providing accurate data on your income and spending. The study is only as accurate as the data provided by the operators.
4. You need some objective and credible (non-advocacy) entity like a Bureau of Economic Research or some other University research program to "tell your story" for it to be believed. You can't tell your own story. Nor can your association - it won't be believed. Most trade association data and literature is not taken very seriously.

5. To be taken seriously as an industry, rather than a collection of independent, small and not very important businesses, you must be able to produce data on your impact on communities, regions and the state. Other coastal industries are able to produce data on direct and indirect expenditures and as a result of their total economic impact, they are taken more seriously in regulatory matters, permitting and coastal zone management.

Your Sea Grant Program here in Florida can help you to evaluate your industry. They need your support if they are to assist you with the necessary research. Talk to Sea Grant. Make it work for you!

MARINE OPERATORS INPUT INTO MARINE TECHNICAL TRAINING

Larry Booth

I want to give you just a little understanding of how an educational institution solicits the help and input from an industry to design a physical program to meet an industrial need.

We started last summer with informal discussions with the Marina Advisory Association of Martin County. They told us they were having a very difficult time getting mechanics to work in their marinas. Considering that we have four or five marine-oriented courses at F. I. T. they asked us to design a program with their input to meet this particular need. To you, Martin County probably represents a thumbnail of a plan. We only have four or five thousand registered boats, but South Florida represents, I think, over 250,000 from Tampa to Monroe County. We designed a survey with the Marine Industry Association and mailed it out to all the identified areas related to service and repair. We ended up with a mail-out of over 200, which involved many persons. Mail-outs come to businesses every week, so we were looking to get a small response; but the result of that survey coincided with Martin County's prediction that the entire marine industry is suffering from a lack of trained mechanics in this particular area.

So, they gave us a charge of designing the curriculum to do this. Initially, we decided to invite the local industry to provide us with a representation for a basis for the curriculum. In that group were marina operators representing three major corporations, Johnson, Evinrude, and Mercury, the three largest sellers of outboards. We were also represented in this developmental state of research by the marine coordinator who sat on our advisory council and gave us the input for our curriculum. We were aware that industry trains mechanics through the local dealerships, so, we visited OMCA training facilities. They endorsed our training concept and said if we could provide a marina mechanic with the initial education in a training program prior to being sent to the corporation training facility, then the corporation can do a much better job of introducing the new products. So, we had this point and the help of OMCA on our side in developing the curriculum for our program.

F. I. T. is currently in a position of going through the Sea Grant Program again as we have already funded another branch with regard to our program. Two years ago we had to seek their support, and they were with us and they were willing to help. They gave us their dollar support. We are soliciting the major corporations for their support, and everything is looking fairly good along those lines.

Larry Booth is on the faculty of the Florida Institute of Technology,
Jensen Beach Campus

A few questions come to mind. What is the industry going to do when an individual is approached by an institution such as ours. Are we going to be constantly facing low sales and poor employee benefits, or is the industry going to respond when institutions provide qualified personnel? Are they going to create a career ladder for a young man who enters this field? This again puts the responsibility back on you people as marina and boat yard owners because if we provide the training and if better ships will continue that training through the corporate training facilities, what's it going to be worth to you to utilize that individual? From what I can learn, a good mechanic doesn't stay too long. He goes from one marina to another. He's with one marina a year, or eighteen months, and he doesn't get a vacation, he doesn't get insurance, and he doesn't get benefits. So, he leaves. We provide training for people and upgrade training for those already in the industry. Will you respond by providing a good opportunity and a good upward movement within the industry?

NATIONAL WEATHER SERVICE PROGRAM FOR BOATERS

Walter Sitarz

The National Weather Service, an agency of the National Oceanic and Atmospheric Administration, operates under the U. S. Department of Commerce, with responsibility for providing weather services to the nation. The service observes and reports the weather, and issues forecasts and warnings in the interest of national safety.

National Legislation provides for, among many other services, specialized services to marine interests. In very broad terms, the priorities for these services to the nation are the protection of life, the protection of property, and the promotion of the nation's welfare and economy.

In order for the National Weather Service to effectively carry out its responsibility to warn and advise marine users of weather information, it is the National Weather Service's policy to encourage other agencies and commercial communications interests to cooperate with us in distributing warnings, forecasts, and observation information by radio and other available means.

The current National Weather Service Marine Communications system consists of the following: NOAA Weather Radio, Weather Wire Services, a multiple access telephone announcement system, visual warning display systems; and Coast Guard, Navy and commercial radio stations that distribute products in varying modes. Some of these modes of communication of weather products are: single side band radiotelephone, radiotelegraph, radiofacsimile, teletype, and radioteletype. Information is also disseminated over commercial radio, AM/FM and television stations.

Full details of specialized broadcasts for mariners are contained in a publication entitled "Worldwide Marine Weather Broadcasts" and additional information relating to telephone numbers and commercial stations are contained on the Marine Weather Service Chart.

The marine information system most commonly used today for forecast information is the NOAA Weather Radio broadcast. It is called the fastest growing radio network in the nation. (A show of hands revealed all attendees were aware of this network.)

These continuous broadcasts of the very latest weather information comes directly from local weather offices. Usually the taped messages are repeated about every four to six minutes. The observational material and forecast information is updated periodically - usually at hourly intervals. These broadcasts are tailored to the needs of the people within the receiving area. For example, the stations along the coast are providing specialized information for boaters, fishermen and other people engaged in marine activities, as well as general weather information.

Walter Sitarz is Port Meteorologist, Southeast Region, National Weather Service, Miami, Florida

During severe weather, the National Weather Service broadcasters can interrupt the routine broadcast and substitute special warning messages. This alert system can activate specially designed receivers and alert listeners to the special message. Receivers with this special alert capability are strongly endorsed for use at public institutions, police departments, fire stations, schools, hospitals, and particularly marinas.

NOAA Weather Radio broadcasts are made on one of three high-banded FM frequencies of 162.40, 162.475, or 162.55 megahertz. These frequencies are not found on the average home radio. A special receiver is required. Most marine VHF radio transceivers usually have at least one, and sometimes two channels dedicated to the weather broadcast. As marina operators and experienced boaters, you are already aware of the existence of these channels in sets presently in operation. Most manufacturers consider the 162.55 channel assignment as WX-1 and 162.40 as WX-2. The introduction of the third channel at 162.475 MHz creates some special problems for owners of marine transceivers with WX-1 and WX-2 capabilities only. In the case of the "cruising" yachtsman with only two available channels for weather broadcasts, the introduction of the third weather channel may be a dilemma. It would be difficult to decide which frequency is most important - but the use of a little tuneable "cube" radio used near the transceiver would allow full coverage while transiting the areas with third channel designation. It appears that the broadcast in the Ft. Myers area will be on the third channel of 162.475 MHz.

Undoubtedly, the most effective means of dissemination of weather information to the mariner in the Coastal Zone is NOAA Weather Radio.

The marine environment is still a puzzle and requires more knowledge of the conditions at the air-sea boundaries and in ocean areas. As more information is gathered and more efficient models of the earth's atmosphere developed, forecasting skills should show a gradual improvement.

But any improvement in forecast skills will not be meaningful unless communicative abilities continue to improve.

Using and understanding the marine forecast requires another basic skill. This may be construed as an educational skill. To understand what is actually being forecast is of paramount importance to the listener. Coastal marine forecasts are for the average wind speed and direction for a large area. Also forecasted are sea conditions - but it is important to note that these forecasts, again, are for the average height of the one third highest significant wind waves.

One of our coastal water forecast zones -- Jupiter Inlet to Tortugas, including the Florida Straits -- consists of more than 10,000 square miles. Considering the dynamic properties of the Gulf Stream within this area, the fully descriptive forecast product would be quite extensive.

HURRICANES, SEVERE STORMS AND MARINA PREPAREDNESS

Neil Frank

I am going to talk to you about two perspectives -- as marina operators and as Florida residents because you should be aware of what problems we, as residents of Florida have.

Most people when they think about a hurricane think about a big wind storm. But the thing we fear most in a hurricane is not so much wind but water. Water comes in two forms in a hurricane -- first heavy rains and inland flooding along the rivers and canals; the second is the storm surge. This is a column of water, not one individual wave -- a column of water that may be fifty miles wide that sweeps across the coastline near the point where the eye of the storm makes landfall. Superimposed above the waves that are normal are higher waves. The eye lands and the waves are dragged around the tree tops. Water is heavy and moving. A storm surge acts like a giant bulldozer.

(Dr. Frank had numerous slides showing examples of hurricane damage and of building construction which was not hurricane resistant.)

We have a people problem. In the sixties we had a 10 percent increase in the number of people who lived in the U.S. But there has been a 43 percent increase in the number of people who live along beachfronts. We have brand new construction from Texas to Maine. Tied in with an increase in population are people coming to Florida today for sunshine, surf, and fishing, so we have marinas and boatyards and a tremendous increase in marine interest which is your primary concern.

We have population concentrations today that I'm not sure we know what to do with. I'm not sure we can evacuate places where we have such large groups of people today.

(Dr. Frank discussed problems in such areas as the Florida Keys, Dade County, and the Tampa Bay-St. Petersburg area.)

To complicate our problems, the greatest increase in our coastal population is now occurring where we're having a recent lull in hurricanes. In the sixties and seventies the hurricanes were in the Gulf of Mexico. In the fifties they were up the east coast. In the forties they were over Florida. In a six-year period, 1944 to 1950, we had seven major hurricanes in the state. In the forties and fifties we did things that we don't do today like trimming our tree limbs back every spring because those big limbs hanging over a house can come down and do tremendous amounts of damage.

Dr. Neil Frank is Director, National Hurricane Center, Miami, Florida

(Dr. Frank showed a series of slides of the destruction from hurricane Eloise in Panama City in 1975.)

There was poor planning in the development of the community. The sand dune is nature's way of reviving the beach in times of high winds. The water washes down and flows in and goes down and we have a beach left, and the winds leave we have a sand dune. It's a cyclical process and we have a beach. The dune also provides a measure of protection not absolute, but a measure of protection for those who decide to locate behind it. But one of the first things the builders did there was to bulldoze the sand dunes down so that guests of the hotels could have instant access to the water. There was a lot of controversy in this county (Bay) over establishing setback lines. They're establishing them all around the state now, but the first place was in this county.

(Dr. Frank showed additional slides of hurricane damage in other parts of the U.S. and on the southeast and west coasts of Florida.)

I don't have solutions for all of this, but I think we ought to be aware of the problems. The thing we fear most is that sometime in the near future with the right hurricane in the right location we're going to have a historical death toll. The death toll will be even greater than the Galveston disaster in 1900 where we lost 6,000 lives, and we're going to have historical damage at some marinas that you are associated with. You have literally millions and millions of dollars tied up at those docks, and one hurricane could do multimillion dollars worth of damage in your small area alone.

FLORIDA SEA GRANT/MARINE ADVISORY PROGRAM

Marion Clarke

I want to take this opportunity to tell you about the Marine Advisory Program (MAP) and the Florida Sea Grant College Program. When you include the Florida Cooperative Extension of which MAP is a component; it becomes a pretty entangled web. I have a short slide presentation that should help clarify for you just what Sea Grant and the Marine Advisory Program are and hopefully you will understand why MAP personnel are here working with you.

As the communications arm of the Florida Sea Grant College, MAP provides the information transfer and technical educational programs to meet the needs of Florida's marine audiences.

Historically, MAP came into being in 1972 when the State University System of Florida became a participant in the national Sea Grant Program -- a program created in 1966 by Congress to provide for the wise use and development of the nation's marine resources through a three-phase program of advisory services, research and education.

Just as the Cooperative Extension Service had been bringing results of university agricultural research to the farming community for years, the Marine Advisory Program was charged with providing advisory services and making applicable university research findings available to the state's marine community.

Because of the similarity of mission, MAP was integrated as a component of the Extension Service. Using the already established delivery base of the Extension Service, it was possible to build a network of marine agents to serve the state's coastal population. These agents, and you have seen most of them here, are strategically located in designated county Extension offices to provide marine advisory services to all of the state's coastal counties. The number of agents is not fixed and as the need is indicated and funds are available, we hope to hire additional agents.

We in the Marine Advisory Program serve the coastal population through education and information programs. But it is also important to understand our limitations -- to know what we cannot do. MAP is not a regulatory agency and these marine advisory agents have no enforcement authority. They are in touch with government regulatory agencies, however, and will usually be able to refer any questions or problems to them.

Dr. Marion Clarke is Assistant Dean for Marine Programs in the Florida Cooperative Extension Service and Coordinator for the Florida Marine Advisory Program

Further, the agents are not advocates. Their role is educational or informational only and in issues involving groups of opposing viewpoints they cannot assume an advocacy position. They will, however, attempt to provide all interested groups with the best, most accurate, and timely information available.

We work with people. We work with people in the commercial and sport fishing industries, marine recreation, marine industries and services (shipyards, marinas, manufacturers), coastal zone planning and management, marine education and youth programs including 4-H, the marine science community, in fact, anyone who lives, works and recreates in coastal communities.

Marine advisory agents serve this vast and diverse marine community through educational and informational efforts and also as a communications link with the Florida Sea Grant College in identifying research priorities. Through individuals or through the work of voluntary marine advisory committees, problems are identified which the agent can refer back to Sea Grant where a researcher on the faculty of one of the universities can be found to undertake the project. Regardless of how the research effort is initiated, however, the marine agent, serves as liaison to the researchers for contacts with advisory committee or individuals in the marine community who are involved. The Marine agent can provide assistance as the research progresses, oftentimes arranging for various essential services such as boat time, or for testing of a new product or method, etc.

The advisory agents also provide information through replies to telephone and letter requests, personal contact, and distribution of publications such as Sea Grant Reports, Sea Grant Technical Papers, Marine Advisory Bulletins, Newsletters, and Fact Sheets.

In providing this service the marine agents and specialists draw upon a multitude of resources. However, even with the resources available to them it is possible they may not have the required information. In this case, they can usually locate it either through the resources of the university system or through contacts with appropriate government agencies.

Finally, these agents you have met here are marine educators in the field. Supported by university-based subject area specialists, they provide factual data and/or alternatives for solving problems. They are really the community arm of the State University System of Florida Sea Grant College.

In this educational role they hold workshops, seminars and conferences with various groups, make appearances before local service clubs, schools, and other public meetings, work with marine oriented business, set up marine oriented public exhibits at local fairs, shopping centers, etc., schedule demonstrations of new methods or products for the marine business community, advise interested groups on fisheries management questions, and participate in other educational endeavors as well.

All education efforts are informal, designed to fulfill practical needs by providing information and technical assistance to coastal user groups like yourselves.

FLORIDA'S COOPERATIVE EXTENSION
SERVICE AND MARINA OPERATORS

John T. Woeste

I represent the leadership of the Cooperative Extension Program in this state, and I'm here as a public servant working for you and the rest of the people in the state of Florida. What we do for you depends on what you give us of your hard-earned tax money from the business you generate. We are delighted to bring this kind of program to you. I want to commend the agencies and staff on this forum. Coming to a conference with so many types of people, and different things being discussed as well as a chance to dialogue with one another was exciting.

I want to especially underscore my appreciation, and I can say with certainty the appreciation of the staff, for the chance to interact with you in terms of what your problems are. In doing that, you help us help you. We can do a great deal more for you with the resources you have given us if you will help us help you. From the earlier comment about the marina study, I think you can empathize with the point. Some of our marine agents -- and I've talked with them -- say that we have tried to expand our programs, and you can help us in that matter. They say, "I go out and introduce myself and I have to make three trips before I feel that the individual will talk with me." Now, not being critical of anyone who is being duly careful and making sure they understand who they talk with, I will say to you, as members of the Extension, we do the very best we can to treat prudently and carefully any information you share with us. For the research we do and the information we put together to be most helpful to you it will be important for you to give us the best information you have. The Cooperative Extension Program of which the Marine Advisory Program in Florida is a part, is charged with the responsibility of identifying problems, of conducting studies, gathering information and bringing that information to people to help them deal with their problems. In addition, it is our intent to work with other agencies and organizations to bring together these kinds of conferences and the best information that can be located and identified to help you.

I indicated earlier we are a public agency. I'm a public servant. My business is helping you. We educate, research, and develop educational programs.

A different kind of point. The point should be clear, if it's not, that increasingly -- and Craig made the point very well -- decisions made by external people have increasing influence on your ability to do business, and while you may feel that's only true to the marine industry, let me assure it's true for agri-business, farming, manufacturing and other industries. Others have more influence on your success, on your ability to deliver a service, and on your profit and loss statement than your own individual decisions.

John T. Woeste is dean of the Florida Cooperative Extension Service,
University of Florida, Gainesville, Florida

As a result, as a manager -- and you are managers, as I understand, the composition of this group -- you must give a great deal of attention to the environment around you to insure that the environment is healthy, is amenable to your existence and progress. One of the ways you do that is by being informed of not only what the environment is but how to deal with it. Another way to affect your business environment, and some people have suggested it, is through organized efforts. Let me comment on that a minute because I see there is some discussion of that planned in the program.

The way you or any other group organizes is your business. If you choose to form an organization and you wish our help, we will work with you the best we can with the resources we have. They are limited, but if they are applicable to your problems and concerns, we are ready to help you. If you don't organize, we're also here to help you. That point, I hope, is clear. Within the Extension system, I think it was pointed out earlier -- but I want to emphasize again, that for whatever resources we may be able to bring to you, they are as close as your local County Extension office.

There are of course, other kinds of contact points for resources within the university system; but I hope that a contact with the local office will bring meaningful help.

I have a position in terms of programs that I want to emphasize. It goes back to the point of asking for your help. My commitment and the philosophy pervading in our organization is to work with people to help them solve their problems. While we feel a responsibility to know what is happening, to know where new information can be found, and how we can best package information to meet your needs we do not propose to know the answers to all your problems or to know what is the best solution for you. As a result, I was pleased to hear that you planned this program. That was the way we want to work with people in this state, whether it's on the county level, community level, or a statewide conference such as this.

The Marine Advisory Program, which is a part of the Florida Sea Grant College Program, is an extension or outreach of the National Sea Grant Program. It is a relatively new program. It started, as I would assume Dr. Marion Clarke mentioned to you yesterday, in terms of outreach efforts more pointed toward fisheries. We are attempting, as we build a greater knowledge base, as we get more experience and as we get additional resources, to broaden the focus to deal with more areas of the marine industry. Included will be recreation and resource management to mention a couple.

With your continued support, it is our intent to expand that program and to be sure that it continues to grow.

In summary, as I have listened here, there appears to be plenty of opportunity for program growth and resolution of critical problems. I'm here to ask your help. Money, yes! Our Extension depends on appropriations by the counties, by the state legislature, and by the federal government. If we are doing the kind of thing you need and want, you sure can help. Also, your help in terms of time and involvement in the program to insure that it meets your needs. We want your help with the local marine advisory committees in programs planning and other kinds of ways. With that kind of

help, I'm confident that we can be of additional service to you. I'm confident of that ability because, among other things, we have an outstanding staff. You've met them, the people we call the Marine Advisory people here, our local county Extension staff who have a great deal of interest in the marine area and its problems, and of course, such people as Doctor Clarke. They are the specialists who lead and conduct this program. We think they are an outstanding group. We think they are committed, as we would expect good public servants to be committed, to helping solve problems through education and research programs.

Lastly, let me say to the people from the other agencies and organizations and the resource people who came, most good programs cannot be put together by one agency or one individual. It takes a large number of people and knowledge which rests in a lot of different places. We appreciate your help, your willingness to share with us and to help us learn more about the problems. We need your help to analyze more critically solutions that we may bring to the problems. We think we have a good working relationship in this state with the other universities -- the campus of the university system and with the various state agencies represented. Certainly an effective education program depends on close cooperation between private interests and public interests.

THE COASTAL PLAINS CENTER

Phil Hill

The Coastal Plains Marine Center was created in 1969 by the Coastal Plains Regional Commission to promote the accelerated economic development of the Coastal Plains Region in ways that will not degrade the quality of its environment by providing free continuing technical assistance to the public agencies, academic institutions, and private enterprises engaged in managing, exploring, and developing the coastal and marine resources of North Carolina, South Carolina and Georgia.

In 1975 the Commission boundaries, and areas served by the Center, were expanded to include eastern Virginia and northern and western Florida. The Center is a partner to all other marine and coastal organizations in the five-State Region. It provides free continuing technical assistance to those who manage, explore, and develop the coastal and marine resources of Florida, Georgia, South Carolina, North Carolina and Virginia; and transfers information and coordinates the sharing of expertise across State lines. This is a job which is not being done by anyone else. The Center stimulates, coordinates, and financially supports information exchange projects such as those included in its Cooperative Projects Program. It extends the technical staff capabilities of the Commission and its member States. Through such means as its annual Conference on Marine Resources it brings coastal and marine agencies and organizations together to facilitate communication and cooperation, and to get them working together on a Regional basis. In order to fill the stated needs for coastal and marine resource information, the Center responds to requests for technical assistance, information, and publications. In order to fill the unstated needs for such information, the Center identifies these needs and conducts an active dissemination program to meet them, involving advisory and consulting services. Sometimes this information is specialized and of interest to only a limited number of individuals or organizations. Sometimes this information is of interest to a broad spectrum of coastal and marine interests and is disseminated through Center publications such as the Newsletter, conference reports, and summaries of coastal and marine activities.

Further information regarding the Center and its services can be obtained by writing to the Coastal Plains Marine Center, 1518 Harbour Drive, Wilmington NC 28401, or telephone 919/791-6432.

Phil Hill is editor with the Coastal Plains Center, Wilmington, NC

THE NATIONAL MARINA ASSOCIATION

Reg Dean

The National Marina Association started in 1972 when a few marina operators and owners and businessmen started wondering why they were not properly represented at the national level. It is the professional society of marina owners, operators, and related individuals concerned with the marina operations. The association was formally incorporated in 1974 to protect the industry and to provide its members with a total awareness of policies, trends, legislation, services, and management techniques affecting the industry from the national level. It serves as a compact representative and centralized organization to consider and act in unison upon all matters affecting the marina industry; to encourage and assist in the formation of local and state associations, and to seek their support in the national association.

As I mentioned previously, one of the prime functions of the association is to stop bad laws from happening rather than wasting time trying to get bad laws off the book.

After listening to the marina operators here and talking to them individually and collectively, I see the possibility of a very viable association. There is talent and experience in such notables as "J. T.," Doug Crane, and Milford Reynolds. There are those who had earlier association experience, as evidenced by Alex, "Mac" McLean, and Bob. Besides these, there are people who have had years of practical marina experience: Ron Stroud and the magnificent Pier 66; Herb Craig, our Yankee; Bill Miller and Diane Whitley, just to name a few. They represent the Florida marina people. Experience and interest is fine, but now the question is, should Florida have a Florida Marina Association?

My answer is no, unless you are willing to work for a very unpopular goal which faces all associations, and that's trying to recruit members.

Marion said he sent invitational flyers to practically all the marinas in the state. I see those present but where are the other six or seven hundred? Are you willing to go out and recruit them, to convince them that there is a need? You're going to be the salesman, not I.

Unfortunately, associations are usually formed because of some catastrophe in the industry; by that time, like a hurricane, it's too late. Maybe this is what you need - a catastrophe.

Can you get rid of the apathy in people? I don't know. People will not join associations for preventive measures. They will not protect themselves. They wait until something happens.

Reg Dean is director, National Marina Association

Again, I say don't start an association unless you're willing to contribute yourself, your own personal, free time and your funds.

It takes both money and active participation. Previously I asked for a show of hands, to see how many people had voiced their opinions or gotten concerned with the Florida coastal zone management problem. The showing of hands was very, very meager; and perhaps it embarrassed some of you. But, minor as it was, it is far greater than the show of hands that have appeared in other states such as Virginia and Maryland where zero hands were raised. But, it's going to take more than a few hands. It's going to take the hands of almost every person in this room. You need strength. You have to speak in unison. You have to speak as a body, and this is why the number of people that we have in this room is not sufficient to form a meaningful organization.

Again, I say no, to a separate Florida marina association unless you're willing to stick with it to make it grow and to make it last, to improve yourself, educationally and financially and to improve the fine industry which you represent.

But, if you in this room are willing to work hard to overcome these obstacles, then I would recommend that you commit yourselves now, sign a pledge or whatever but don't wait.

If you are a marina operator or owner I would also invite you to consider joining the NMA so we can have your additional strength. In addition, we need your news input, even if you are not members. We want to know what's going on in the industry down here in Florida, and we need you to speak out and act in your own behalf; and in some cases, we need people to speak for us in Washington. But, you've got to speak in a strong voice for your individual members and for the marina industry. And, don't forget to include the boating public; because, whether you like it or not, you serve in the public interest.

No, I really don't see where you need much help from me in getting a state organization going. As I've said, you've got the talent, the spirit, and the challenge. It's now time to get serious. Jerry Melvin, J.T., and Marion have given you the challenge. I'm sure you can meet the problem today and tomorrow, but I wonder about next year and the years after, when the going gets tough and others are reluctant to join.

We will help you in any way that we possibly can, but we are not going to meddle in your affairs. I look forward to working with you on this and other valid issues which may come to pass, because we're really all in the same boat. If and when your association is established, however small, we invite your executive director or an appointed member to sit on our advisory board as a representative of the state of Florida. In this manner we are able to have state marina associations working closely with each other. But, the decision is yours. You can either join and work for your Florida Marina Association, or as one speaker said, you can sit back and search the darkness. Hopefully, it will not be the latter.

A MARINA ORGANIZATION FOR FLORIDA -- YES OR NO?

Before the conferees discussed the question of forming an organization of marina and boatyard operators, Dr. Clarke read to the group the following letter from Jess L. Moore, President of the Marine Industries Association of South Florida.

"Dr. Clarke, on behalf of the Marine Industries Association of South Florida, I wish to commend the University of Florida and the Sea Grant Program for their interest in the retail marine business within the state. We sincerely endorse the concept of the Marina and Boat Yard Operators Conference; however, the dates make it impossible for us to attend.

It has also come to our attention that efforts are underway to establish a state-wide association of marinas and boat yards.

At our Board of Directors meeting on May 28, 1978, it was the unanimous vote of the Board to go on record as opposing the formation of such a state-wide association. It is our feeling that the nine marine industry groups within the state as well as the Marine Industries Association in Florida would lose their effectiveness by the addition of another association.

Unlike other industries, the recreational boating business is dependent upon the interaction of manufacturers, distributors, and retailers as well as the marinas and boat yards of the state. The Marine Industries Association of South Florida for years has had a boat yard operator's task force, which meets bi-monthly to discuss those problems which are unique to boat yard operators. Our marina task force meets twice yearly for discussion of their particular needs.

It is our hope that before any final decisions are made that our comments will be made a part of the permanent record."

Dr. Clarke then turned the discussion over to Milford Reynolds who in turn asked J. T. Lowe, Doug Crane, and Barbara Goss to come to the front and lead the discussion concerning the formation of an association.

There were differences of opinion among the group and no definite decision was made as to the formation of a marina operator's association. However, the group did unanimously endorse Milford Reynolds as a representative of the group on the Florida Tourism Advisory Council.

It was also suggested that the state, through a grant to the Marine Advisory Program, might request that Dr. Clarke initiate a study to determine where all the marinas in the state were located and what kind of businesses they are. This information would be valuable in notifying all those in the industry about future meetings of marina operators.

CONFERENCE SUMMARY

Marion Clarke

Looking at the conference, the presentations, and the discussions in the light of our original objectives I feel it is fair to say that we were even more successful than we had originally hoped. We took a long, hard look at government permitting procedures, at boating regulations and regulating agencies, at legal and insurance questions. We considered the matter of the weather, hurricanes, and a host of other marine-related problems. The conferees considered Governor Askew's call for a strong Coastal Zone Management Plan and finally, before adjourning, set in motion, the process for possible formation of a Florida Marina Association.

State representative Jerry Melvin of Fort Walton Beach, told the marina operators that the Coastal Zone Management Plan (CZM) would not go away and encouraged them to make themselves heard in the matter which was then pending before the session of the legislature. Melvin, chairman of the Tourism and Economic Development Committee told the conferees he had pre-filed a bill to delay consideration of the CZM plan until the 1979 legislative session because he believed there had not been time enough for the legislators to thoroughly consider it and that if adopted without adequate study the results could be disastrous to the state's economy.

While the role of the Marine Advisory Program (MAP) in the conference was educational only -- to furnish a forum for discussion of the issues, and not to assume an advocacy position in any matter -- Dr. John Woeste, dean of the Florida Cooperative Extension Service told the group that MAP was expanding into the marine recreation area and that they were committed to helping the marina industry.

As for forming an association, the group present at the conference represented but a fraction of the marina and boatyard operators in Florida. To that extent the conference was not as successful as we had hoped. But those present recognized the recruiting work that had to be done before an association could be formed.

With over 447,000 boats of all types (both recreational and commercial) registered according to the Florida Marine Patrol, and with at least 800 or more marinas in the state, the boating industry represents a tremendous economic factor. That alone seemed a valid reason for those in attendance to consider an organization to work for their interests.

At the end of the conference it was also apparent that the group did not know exactly where they wanted to be or just how organized they wanted to become. But there was agreement that the Marine Advisory Program should continue its educational effort in the marina area and to go ahead with plans for another conference in about a year, probably May 1979.

