# Federal Regulations:

*Coastal Structures, Environmental Protection , and Boating Safety*



Harbormaster Reference Series

Module II

Sources: Title 33 Code of Federal Regulations, Sections 95, 100, 109, 110, 158, 159, 173, 174, 175, 181.

"Guidelines for Permit Applications" distributed by the Army Corps of Engineers, 1990.

"Guidance for State and Municipalities Seeking No Discharge Area Designation for New England Coastal Waters" distributed by the Environmental Protection Agency, 1991.



COASTAL RESOURCES CENTER

RHODE ISLAND SEA GRANT

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# Module II

## FEDERAL REGULATIONS: Coastal Structures, Environmental Protection, and Boating Safety

**Harbormaster Reference Series**

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## PREFACE

Throughout the country, coastal municipalities are under increasing pressure to effectively manage shoreline resources and a wide range of water-related activities. The ability to accomplish this improves with the presence of a qualified harbormaster. He or she is primarily responsible for ensuring that the rules and regulations are properly enforced, that information and assistance is provided to all waterway users, and that waterfront safety is achieved. These public servants often find themselves at the center of complex management decisions, involving difficult issues and active special interest groups.

In order to assist harbormasters in meeting their expanding roles, the University of Rhode Island's Coastal Resources Center and Rhode Island Sea Grant, in conjunction with the Rhode Island Harbormaster Association, developed an educational program specifically for municipal harbormasters. This program consists of forty hours of basic training in a wide array of topics including first aid, law enforcement, boating safety, seamanship, mooring management, harbor planning, environmental awareness and liability mitigation. Individual reference materials were developed for each topic. Combined, they create a comprehensive reference guide for harbormasters. The complete reference series consists of six modules, which are intended to be used as reference material to assist harbormasters in carrying out their official responsibilities. It can be used to provide answers to questions from the users of local waters and waterfronts; it can help harbormasters make better informed management decisions for the activities within their jurisdiction; and it can give harbormasters a better understanding of their role in implementing coastal management polices.

A brief summary of each module follows.

**MODULE I**
**Public Rights to Coastal Waters: Applying the Public Trust Doctrine**
Part of the expanding role of today's harbormaster is to balance private use of shoreline areas with public demands for greater coastal access. Private control or riparian ownership takes many forms ranging from filling submerged land to the placement of moorings. Public interest extends from getting to the shoreline to the harvesting of the fishery resources. This module is the Executive Summary of a national report on the Public Trust Doctrine by David Slade et al. It provides an overview of the legal status of tidelands held in trust by each state for public use and is intended to provide guidance to coastal managers on the application of the Public Trust Doctrine to trust lands, waters and living resources.

**MODULE II**
**Federal Regulations: Coastal Structures, Environmental Protection and Boating Safety**
Harbormasters are required to perform work in the coastal zone and on coastal waters which are subject to a wide assortment of federal rules, regulations and policies. Federal regulations which are most pertinent for harbormasters are presented in this module. The first section presents the federal guidelines for the placement of objects or structures in navigable waters as regulated by the Army Corps of Engineers. The second section presents elements of the Federal Code of Regulations, which are administered by the Coast Guard, pertaining to boating safety and water quality impacted by boating.

**MODULE III**
**Rhode Island State Regulations: Environmental Protection and Boating Safety**
Harbormasters are the primary front line enforcement people for water dependent uses. Although the authority to enforce conservation laws varies from state to state, harbormasters, at the very least, have

the ability to monitor the taking of shell and finfish and report any illegal activity to the proper authorities. In addition to protecting the aquatic resources of a state, harbormasters are responsible for enforcing boating safety regulations. The need for active on-the-water patrols and enforcement of boating rules and regulations has increased proportionally to the number of boaters operating on local rivers, harbors, and embayments. This module presents those Rhode Island state laws governing fisheries, water quality and boating safety. It is applicable only to Rhode Island and is intended to be substituted with appropriate laws for other states.

**MODULE IV**
**Municipal Mooring Area Management**
Pressures to use surface waters for moorings and docks has increased as the boating population swells. In order to meet this demand, harbormasters are looking for safe techniques for increasing mooring density. The first section of this module presents suggestions for efficient management of harbor surface areas.

The second section, through diagrams, reviews the standard mooring assembly for a single point mooring as used throughout the United States. Proper mooring sets, winterization and inspection processes are also discussed.

**MODULE V**
**Harbormaster Liability: Reducing Risk**
Each time a harbormaster goes out on patrol or makes a mooring placement decision, the municipality for which he or she works incurs some liability. This module provides the harbormaster and the city or town with basic information on how to limit liability by reducing risks which occur during routine harbor patrols including medical response, mooring management, towing, hazard mitigation.

**MODULE VI**
**Multi-use Harbor Management: A Case Study for Local Harbormasters**
Local harbor management has become a key element in state coastal planning, allowing home-rule decision making and management. In many instances the harbormaster is quickly becoming the person responsible for local coastal management. This module presents a case study which explains the expanding role of harbormasters and examples of effective interaction with local decision makers and harbor users.

Mark Amaral and Virginia Lee
July 1992

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We are grateful for the care with which Annette Burgess, of the URI Coastal Resources Center, painstakingly reproduced government regulations and worked on layout and cover design.

A great deal of information in Module II was reproduced from two very useful documents. The first is a report completed by the U.S. Army Corps of Engineers entitled, "Guidelines for Permit Application," 1990. The second is a document issued by the Environmental Protection Agency entitled, "Guidance for States and Municipalities Seeking No Discharge Area Designation for New England Coastal Waters," 1991. These documents and federal agencies have been extremely valuable to this production.

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## INTRODUCTION

In most cases the role of a harbormaster requires him or her to address activities which are subject to a wide assortment of federal legislation, rules and regulations. Harbormasters should be familiar with the roles of the various federal agencies that have jurisdiction in coastal waters. There are federal guidelines for what, how, and when most water-related activities can occur and for the placement of objects or structures in the water. There are also regulations concerning water quality and natural resource management. State and local governmental agencies frequently duplicate federal regulations to enable local enforcement. This module will concentrate only on the federal regulations most likely to affect the actions of a local harbormaster. These are implemented and enforced by two federal agencies: The U.S. Army Corps of Engineers and the U.S. Coast Guard.

## PERMITTING STRUCTURES IN THE COASTAL ZONE

The placement of structures into waterways is regulated by the U.S. Army Corps of Engineers. The Army Corps has been regulating activities in the nation's waters since 1890. Until the 1960's, the primary purpose of the regulatory program was to protect navigation. Since then, new laws and court decisions have broadened the program. The regulatory process now considers the full public interest for both the protection and use of water resources.

The Army Corps receives it's powers, authorities and responsibilities from several pieces of federal legislation, including: the Rivers and Harbors Act of 1899, the Clean Water Act, the Marine Protection, Research, and Sanctuaries Act of 1972 and the Coastal Zone Management Act of 1972.

The following information has been reproduced from a recent U.S. Army Corps of Engineers report, "**Guidelines for Permit Applications**". The information provides harbormasters with answers and guidance to basic questions concerning the placement of structures into waters within their jurisdiction.

"**Authority for the U.S. Army Corps of Engineers Regulatory Program.** The U.S. Army Corps of Engineers has been regulating activities in the nation's waters since 1890. Until the 1960's, the primary purpose of the regulatory program was to protect navigation. Since then, new laws and court decisions have broadened the program. The regulatory program now considers the full public interest for both the protection and use of water resources.

The following laws define the regulatory authorities and responsibilities of the Corps of Engineers:

> SECTION 9 OF THE RIVERS AND HARBORS ACT OF 1899 (33 U.S.C. 401) authorizes the Corps to regulate the construction of any dam or dike across navigable waters of the United States.
>
> SECTION 10 OF THE RIVERS AND HARBORS ACT OF 1899 (33 U.S.C. 403) authorizes the Corps to regulate certain structures or work in or affecting navigable waters of the United States.
>
> SECTION 404 OF THE CLEAN WATER ACT (33 U.S.C. 1344). Section 301 of this Act authorizes the Crops to regulate the discharge of dredged or fill material into waters of the United States.
>
> SECTION 103 OF THE MARINE PROTECTION, RESEARCH AND SANCTUARIES ACT OF 1972, as amended (33 U.S.C. 1413) authorizes the Corps of Engineers to regulate the transportation of dredged material for the purpose of disposal in the ocean.

The Corps also coordinates compliance with related federal laws. These include the National Environmental Policy Act, the Fish and Wildlife

Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Deepwater Port Act, the Federal Power Act, the Marine Mammal Protection Act, the Wild and Scenic Rivers Act, the National Fishing Enhancement Act, and the National Flood Insurance Act of 1968 (as amended), and Executive Order 11988 on Flood Management. Other laws which may also affect the processing of your application are described below.

Section 401 of the Clean Water Act requires applicants to obtain a certification or waiver from the state water pollution control agency to discharge dredged or fill materials. This agency reviews the effect on water quality standards.

Section 307(c) of the Coastal Zone Management Act of 1972, as amended, requires applicants to obtain a certification or waiver that the activity complies with the state's coastal zone management program for activities affecting a state's coastal zone.

**Commonly Used Terms.** This section explains certain terms which are closely associated with the Army Corps' regulatory program. If you need more detailed definitions, you should refer to the Code of Federal Regulations (33 CFR Parts 320 through 330) or contact the Army Corps Regulatory Office nearest you.

*Activity (ies)* include the construction, modification, or removal of structures (for example, a pier, wharf, bulkhead, or jetty) and work (for example, dredging, disposal of dredged material, filling, excavation or other modification of a navigable water of the United States).

*Navigable Waters of the United States* are those waters of the United States that are subject to the ebb and flow of the tide shoreward to the mean high water mark and/or are presently used, or have been used in the past or may be susceptible to use to transport interstate or foreign commerce. These are waters that are navigable in the traditional sense where permits are required for certain activities pursuant to Section 10 of the Rivers and Harbors Act. This term should not be confused with the term waters of the United States (below).

*Waters of the United States* is a broader term than navigable waters of the United States defined above. This term includes those waters and in addition includes their tributaries, adjacent wetlands and other waters or wetlands where degradation or destruction could affect interstate or foreign commerce. Permits are required for the discharge of dredged or fill material in these waters pursuant to Section 404 of the Clean Water Act.

*Pre-application Meeting* is one or more meetings between members of the Corps staff and an applicant and/or agent regarding the proposed activity within Corps jurisdiction. The consultation may involve discussion of alternatives, environmental documents, National Environmental Policy Act procedures, and potential scope of the data for an environmental impact statement, if necessary. Such meetings often benefit the applicant by providing useful information which could prevent delays during permit evaluation.

*Public Hearings* are held to acquire additional information in connection with a permit application or Federal project. The Corps may conduct a hearing or participate in joint public hearings with other Federal or State agencies. The Corps may specify in the public notice that a hearing will be held. In addition, any person may request a public hearing in writing during the comment period. Specific reasons must be given as to the need for a hearing. The Corps will try to resolve the issue informally or may set a date for the public hearing. Hearings are held at times and places that are convenient for the interested public. A public hearing is seldom needed to complete the decision process.

*Public Interest Review* refers to the evaluation of a proposed activity to determine whether issuance of the permit is contrary to public interests. Expected benefits are balanced against reasonably foreseeable detriments. All relevant factors are weighed.

The Corps' policy is to provide applicants with a timely and carefully weighed decision which reflects the public interest.

*Public Notice* is the primary method of advising interested public agencies and private parties of the proposed activity. The Public Notice also solicits comments and information necessary to evaluate the probable impact on the public interest. Upon request, the Corps will add anyone's name to the distribution list to receive public notices.

*High Tide Line* is a line or mark left upon tide flats, beaches, or along shore objects that indicates the intersection of the land with the water's surface at the maximum height reached by a rising tide. The high tide line may be determined by tidal gages, physical markings or characteristics, vegetation lines, a more or less continuous deposit of fine shell or debris on the foreshore or berm, or other suitable means such as a line of oil or scum along the shore that delineate the general height reached by a rising tide. The term includes spring high tides and other high tides that occur with periodic frequency, but does not include storm surges in which there is a departure from the normal or predicted reach of the tide due to the pilint up of water against a coast by strong winds such as those accompanying a hurricane or other intense storm.

*Mean High Water Mark*, with respect to ocean and coastal waters, is the line on the shore established by the average of all high tides. It is established by survey based on available tidal data (preferably averaged over a period of 18.6 years because of the variations in tide). In the absence of such data, less precise methods to determine the mean high water mark are used, such as physical markings, lines of vegetation or comparison of the area in question with an area having similar physical characteristics for which tidal data are readily available.

*Ordinary High Water Mark*, with respect to non-tidal waters, is the line on shore established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas.

*Headwaters*, is a term found in Nationwide Permit Number 26, and means the point on a non-tidal stream above which the average annual flow is less than 5 cubic feet per second. The district engineer may estimate this point from available data by using the mean annual area precipitation, area drainage basin maps, and the annual runoff coefficient, or by similar means. For streams that are dry for long periods of the year, "headwaters" may defined as the point on the stream where a flow of 5 cubic feet per second is equaled or exceeded 50 percent of the time.

*404(b)(1) Guidelines (40 CRF Part 230)*, prepared by the Environmental Protection Agency in consultation with the Corps, are the federal environmental regulations for evaluating the filling of waters and wetlands.

**Questions That Are Frequently Asked.** The following questions are most often asked about the Army Corps Permitting Process.

*When should I apply for a Corps permit?*

You should apply as early as possible during the conceptual stage of the project. Two to three months is normally required to evaluate a routine application involving a public notice. You must have the required approvals before you begin any work.

For a large or complex activity that may take longer, a "pre-application meeting" with the Corps during the early planning phase of you project may be helpful. You may receive useful information at this point which could prevent delays later. When in doubt about the requirement for a permit or what you need to do, don't hesitate to call the local Corps office.

*I have obtained permits from local and state governments. Why do I need a permit from the Corp of Engineers?*

Because it is required by Federal law. You may not have to get an individual permit, however, depending on the type or location of work. The Corps has many general permits which authorize minor activities without the need for lengthy review. Check with your Corps regulatory office for information on general permits. When a general permit does not apply, you may still be required to get an individual permit.

*What will happen if I do work without getting a permit from the Corps?*

Performing unauthorized work in waters of the United States or failure to comply with terms of your permit can have serious consequences. You would be in violation of Federal law and could face stiff penalties, including fines or requirement to restore the area or both.

Enforcement is an important part of the Corps regulatory program. Corps surveillance and monitoring activities are often aided by various agencies, groups, and individuals, who report suspected violations. When in doubt about whether a planned activity needs a permit, contact the nearest Corps regulatory office.

*Is it likely that my request to do work will be denied?*

Nationwide, only a small percentage of all requests for permits are denied. Those few applicants who have been denied permits usually have refused to change the design, timing, or location of the proposed activity. The Corps will try to give you helpful information, including the factors it evaluates during the public interest review and alternatives to consider that may prove to be useful in designing an acceptable project.

*What is a wetland, and what is its value?*

Wetlands are areas that are periodically or permanently inundated or saturated by surface or ground water and support vegetation adapted for life in saturated soil. Wetlands include swamps, marshes, bogs, and similar areas. A significant natural resource, wetlands serve important functions. Wetlands provide fish and wildlife habitat, food chain production, nesting, spawning, rearing and resting sites for aquatic and land species, protection of other areas from wave action and erosion, storage areas for storm and flood waters, natural recharge areas where ground and surface water are interconnected, and natural water filtration and purification functions.

Although individual alterations of wetlands may constitute a minor change, the combined effect of many changes often results in major damage to wetland resources. During the review of application for alteration of wetlands, the Corps considers whether the proposed activity needs to be located in a wetland or waterway.

Wetland boundaries are determined using the mandatory technical criteria found in the Federal Manual for Identifying and Delineating Jurisdictional Wetlands. These boundaries are often different from those delineated based on State and local laws. Your Area's Division can provide regionally modified data forms for use with the Federal Manual.

*How can I design my project to eliminate the need for a Corps permit?*

In an area of tidal waters, the best way to avoid the need for a permit is to select a site that is above the high tide line and avoid wetlands or other waterbodies. In the vicinity of fresh water, stay above ordinary high water and avoid wetlands adjacent to the stream or lake. Also, your activity may be exempt, and you may not need a Corps permit. If your activity is authorized by a nationwide or regional general permit, the process is greatly simplified. So, before you build, dredge or fill, contact the Corps regulatory office in your area. Ask for specific information about location, exemptions, and regional and nationwide general permits.

*What if my project is located in a floodplain?*

The Corps does not regulate activities specifically because they are located within a floodplain. Frequently however, wetlands and waterways of the United States coincide with a Special Flood Hazard Area (SFHA), identified by the National Flood Insurance Program (NFIP) on a community's Flood Insurance Rate Map (FIRM). Work within Corps jurisdiction proposed in a SFHA designated on a community's current effective FIRM is subject to the provisions of Executive Order 11988 Floodplain Management and minimum requirement of the NFIP. The Corps will evaluate such projects accordingly.

**Permits for Fixed Structures.** This section provides information on the types of permits the Army Corps issues, permit application requirements, the permit review process, and forms of authorization.

The Army Corps issues several types of permits to authorize activities in waters of the United States. Your activity can be authorized under an individual permit or a general permit.

1. General Permits:

   - Nationwide General Permits are a series of general permits issued by the Corps' Washington office for minor projects in certain areas. All nationwide permits have special conditions which must be met in order for a project to qualify for nationwide permit status. Some nationwide permits also require pre-discharge notification to the Corps before work begins.

     Please refer to the Code of Federal Regulations, 33 CFR Part 330.5(a), for a complete description of the nationwide permits and the criteria for each, including standard conditions. {Appendix I}

   - Regional General Permits apply to certain minor activities authorized by the Corps on a regional or statewide basis. Activities allowed by a regional permit may include docks, piers, an mooring buoys in tidal waters, minor road work by a town or state agency, minor hydro projects, and maintenance dredging with upland disposal. In some states, the Corps authorizes certain activities under State Program General Permits. Check with the Corps officer for a current list of regional permits available in your state.

General permits apply to activities the Corps has determined are substantially similar in nature and cause minimal environmental impacts, individually and cumulatively. The Corps does not require a detailed review for these activities; however, written verification of regional permit eligibility is necessary from the Corps for work covered under regional permits, and some nationwide permits require notification to the Corps. The Corps also has the final authority to notify or override nationwide permits, so you are advised to verify in writing that your activity falls under the criteria applicable to the specific permit before beginning work.

The following information should be submitted to the Corps to obtain verification that your activity is authorized under a general permit:

* *Brief Project Description* of the purpose of the proposed activity.

* *Vicinity map* locating the site of the entire project. Use and existing road map or U.S. Geological Survey topographic map.

* *Site Plan showing the project limits* as if you were looking straight down on it from above. Clearly show the entire project site, and the limits of waterbodies and wetlands. Numbered references should be made to attached detail sheets.

* *Detail plan view showing the proposed activity* as if you were looking straight down on it

from above. Clearly show any activity within jurisdictional water-bodies or wetlands. If the project involves the discharge of dredged or fill material, indicate the limits of wetland filling and the area of fill in square feet.

The plan should include the dimensions of proposed structures or area of work. Indicate distances to recognizable landmarks(e.g., existing roadways and buildings, utility poles, fences) to assist in locating the activity in the field.

2. Individual Permits:

- Individual Permits are required if your project does not fall under the criteria for a general permit. If your project requires an individual permit, the Corps issues a Public Notice advising all interested parties of the proposed activity. This public Notice process helps the Corps to evaluate the probable impact of the project as part of the public interest review.

**Permits for Moorings.** The United States Army Corps of Engineers is the primary agency for granting federal approval of moorings. The Corps offers these basic guidelines to clarify their jurisdiction for boating enthusiasts:

- INDIVIDUAL, NON-COMMERCIAL MOORINGS — These are moorings placed by a vessel owner for his/her private use. Installation of such mooring are authorized under a Nationwide Permit if they do not interfere with navigation. Consequently, your local harbormaster has approval authority and no application to the Army Corps of Engineers is required.

- COMMERCIAL MOORINGS—Commercial mooring buoys that are not for sale or rent are authorized under a General Permit by the Corps if they are not located in a Federal channel or anchorage and do not interfere with navigation. Temporary moorings used by marine facilities in their commercial operations fall under this category. A good example is a few moorings used for holding vessels until they brought on land for maintenance or storage. The local harbormaster has approval authority.

- RENTAL MOORINGS— The installation of moorings for which any type of fee is charged must be approved by the Corps of Engineers. This includes moorings offered by marinas for transient or seasonal rental and moorings controlled by private yacht clubs if the annual membership fee includes a club-controlled mooring.

Applications for rental moorings must be filed with adequate drawings with the Corps of Engineers' regional headquarters. After reviewing the documents, the Corps will issue a public notice soliciting comments on the proposal. Finally, public comments will be considered and a decision will be made whether the proposed activity is in the public interest and a permit will be issued or denied.

Rental moorings in continuous use since 1968 may be "grandfathered" and should be handled fairly routinely. Operators of any rental moorings placed since then which do not have permits should submit an application as soon as possible to maintain use of the moorings."

**Permits for Anchorage Areas.** Part 109 of the Code of Federal Regulations, Title 33 (33CFR109) regulates anchorages for vessels in the navigable waters of the United States as follows:

"§ 109.05 Anchorages grounds -
authorizes the establishment of anchorage grounds for vessels in navigable waters of the Unites States whenever it is apparent

that these are required by the maritime or commercial interests of the United States for safe navigation.

§ 109.10 Special anchorage areas - provides for the designation of special anchorage areas wherein vessels not more than sixty-five feet in length, when at anchor, will not be required to carry or exhibit anchor lights."

Designations of these anchorage areas are made by the United States Coast Guard upon consultation with the Army Corps of Engineers and the other proper representatives of other departments of federal, state, and local government and after investigation, by rule, regulation, or order.

Areas which have been designated either special anchorages areas or anchorage grounds are listed in §110 of 33 CFR and mapped on NOAA nautical charts. The listing includes regulations which pertain to these specific areas.

**Special Anchorage Areas**

110.5 Casco Bay, Maine
110.6 Portland Harbor, Portland, Maine (between Little Diamond Island and Great Diamond Island)
110.52 Thames River, New London, Conn.
110.53 Niantic, Conn.
110.54 Long Island Sound, on west side of entrance to Pataguanset River, Conn.
110.55 Connecticut River, Conn.
110.55a Five Mile River, Norwalk and Darien, Conn.
110.56 Noroton Harbor, Darien, Conn.
110.72b St. Simons Island, Ga.
110.72c Lake Murray, S.C.
110.72d Ashley River, Charleston, S.C.
110.73 St. Johns River, Fla.
110.73a Indian River at Sebastian, Fla.
110.73b Indian River at Vero Beach, Fla.
110.80b Marquette harbor, Marquette, Mich.
110.81 Muskegon Lake, Mich.
110.81a Lake Betsie, Frankfort, MI.
110.82 Charlevoix Harbor, Mich.
110.95 Newport Bay Harbor, Calif.
110.100 Los Angeles and Long Beach Harbors, Calif.
110.111 Marina del Rey Harbor, Calif.
110.115 Santa Barbara Harbor, Calif.
110.120 San Luis Obispo Bay, Calif.
110.125 Morro Bay Harbor, Calif.
110.126 Monterey Harbor, Calif.

**Anchorage Grounds**

110.155 Port of New York
110.156 Randall Bay, Freeport, Long Island, N.Y.
110.157 Delaware Bay and River
110.158 Baltimore Harbor, Md.
110.159 Annapolis Harbor, Md.
110.189a Key West Harbor, Key West, Fla., naval explosives anchorage area
110.196 Sabine Pass Channel, Sabine Pass, Tex.
110.197 Galveston harbor, Bolivar Roads Channel, Texas
110.216 Pacific Ocean at Santa Catalina Island, Calif.
110.233 Prince William Sound, Alaska
110.255 Ponce Harbor, P.R.

## ENVIRONMENTAL PROTECTION AND POLLUTION ABATEMENT

**Reception Facilities for Oil, Noxious Liquid and Garbage.** Part 158 of the Code of Federal Regulations, Title 33 (CFR 158) regulates reception facilities for oil, noxious liquid substances (NLSs), and garbage. The purpose of Part 158 is to establish criteria for determining (1) the adequacy of reception facilities which receive waste oil, noxious liquid substances and garbage and, (2) procedures for certifying the adequacy of these facilities.

The CFR is divided into five subparts A-E. Within these five subparts there are essentially two categories. One group of regulations is designed for ports and terminals that handle oceangoing vessels (Subparts B,C and E) and concentrates on reception facilities for oil, oily wastes and NLS. The second group is a broader category (Subpart D) that establishes the regulations for handling garbage

and it includes every port and terminal located in the United States or subject to the jurisdiction of the United States.

Subpart A provides general information, including the criteria used to determine which ports and terminals must provide reception facilities and which ports and terminals must have certificates of adequacy. For example, reception facilities for substances covered by Part 158 must exist at:

(a) A port or terminal which receives oceangoing tankers, or any other oceangoing ship of 400 gross tons or more, carrying residues and mixtures containing oil. It must have a reception facility which meets the criteria established for handling such material found in Subpart B.

(b) A port or terminal which receives oceangoing ships carrying NLSs must have a reception facility which meets the criteria established for handling such material found in Subpart C.

(c) All ports and terminals under the jurisdiction of the United States, including commercial fishing facilities, mineral and oil shorebases, and recreational boating facilities. These must have a reception facility which meet the adequacy requirements for handling garbage established in Subpart D. A recreational boating facility means a facility that is capable of providing wharfage or other services for 10 or more recreational vessel.

Ports and terminals must have certificates of adequacy if they:

(a) receives oceangoing tankers, or any other oceangoing ship of 400 gross tons or more, carrying residues and mixtures containing oil;

(b) receive oceangoing ships carrying NLSs;

or

(c) receive fishing vessels which offload more that 500,000 pounds of commercial fishery products from all ships during a calendar year.

According to 158.135 recreational boating facilities do not need certificates of adequacy.

Because garbage handling is a common problem for harbormasters, Subpart D, Part 158 of the Code of Federal Regulations, Title 33 which defines the criteria for adequacy of Garbage Reception facilities is quoted verbatim as follows:

**33 CFR 158, Subpart D: Criteria for Adequacy of Reception Facilities: Garbage**

"158.400 Purpose.

The purpose of this subpart is to supply the criteria for determining the adequacy of reception facilities for garbage at ports and terminals that receive ships and to comply with the Act and Regulation 7 of Annex V to MARPOL 73/78.

158.410 reception facilities: General.

(a) Except as allowed in paragraph (b) of this section the person in charge of a port or terminal shall ensure that each port or terminal's reception facility.-

(1) Is capable after August 28, 1989 of receiving APHIS regulated garbage at a port or terminal no later that 24 hours after notice under 151.65 of this chapter is given to the port or terminal, unless it only receives ships that-

(i) Operate exclusively within the navigable waters of the United States;
(ii) Operate exclusively between ports or terminals in the continental United States; or
(iii) Operate exclusively between continental United States ports or terminals and Canadian ports or terminals and Canadian ports or terminals.

(2) Is capable of receiving medical wastes or hazardous wastes defined in 40 CFR

61.3, unless the port or terminal operator can provide to the master, operator, or person in charge of a ship, a list of persons authorized by federal, state, or local law or regulation to transport and treat such wastes;

(3) Is arranged so that it does not interfere with port or terminal operations;

(4) Is conveniently located so that mariners unfamiliar with the port or terminal can find it easily and so that it's use will not be discouraged;

(5) Is situated so that garbage from ships which has been placed in it cannot readily enter the water; and

(6) Holds each federal, state, and local permit or license required by environmental and public health laws and regulations concerning garbage handling.

(b) A reception facility for a ship repair yard does not have to meet the requirements of paragraph (a) (1) of this section if it is capable of handling the transfer of garbage from a ship before the ship departs from the yard.

NOTE: The U.S. Department of Agriculture's Animal and Plant Health Inspection Service (APHIS) requires victual wastes or garbage contaminated by victual wastes, except from vessels that operate only between the continental United States and Canadian ports, to be incinerated or sterilized in accordance with their regulations in 7 CFR 330.400 and 9 CFR 94.5.

158.420 reception facilities: Capacity and exceptions.

Each day a port or terminal is in operation, the person in charge of a port or terminal must provide, or ensure the availability of, a reception facility that is capable of receiving all garbage that the master or person who is in charge of a ship desires to discharge, except-

(a) Large quantities of spoiled or damaged cargoes not usually discharged by a ship; or
(b) Garbage from ships not having commercial transactions with that port or terminal."

**Marine Sanitation Devices.** Regulations governing the design and construction of marine sanitation devices and procedures for certifying that marine sanitation devices meet the regulations and the standards of the Environmental Protection Agency promulgated under section 312 of the Federal Water Pollution Control Act (33 U.S.C. 1322), to eliminate the discharge of untreated sewage from vessels into the waters of the United States, including the territorial seas are described in Part 159, Subpart A, of the Code of Federal Regulations, Title 33 (33 CRF 159). The following is a verbatim copy of two key parts of 33 CFR 159, Subpart A.

"159.3 DEFINITIONS
In this part:

(a) "Coast Guard" means the commandant or his authorized representative.
(b) "Discharge" includes, but is not limited to, any spilling, leaking, pouring, pumping, emitting, emptying, or dumping.
(c) "Exisiting vessel" includes any vessel, the construction of which was initiated before January 30, 1975.
(d) "Inspected vessel" means any vessel that is required to be inspected under 46 CFR Chapter I.
(e) "Manufacturer" means any person engaged in manufacturing, assembling or importing of marine sanitation devices or of vessels subject to the standards and regulations promulgated under section 312 of the Federal Water Pollution Control Act.
(f) "Marine sanitation device" and "device" includes any equipment for installation on board a vessel which is designed to

receive, retain, treat, or discharge sewage, and any process to treat such sewage.

(g) "New vessel" includes any vessel the construction of which is initiated on or after January 30, 1975.

(h) "Person" means an individual, partnership, firm corporation, or association, but does not include an individual on board a public vessel.

(i) "Public vessel" means a vessel owned or bare-boat chartered and operated by the United States, by a State or political subdivision thereof, or by a foreign nation, except when such vessel is engaged in commerce.

(j) "Recognized facility" means any laboratory or facility listed by the Coast Guard as a recognized facility under this part.

(k) "Sewage" means human body wastes and the wastes from toilets and other receptacles intended to receive or retain body wastes.

(l) "Territorial seas" means the belt of the seas measured from the line of ordinary low water along that portion of the coast which is in direct contact with the open sea and the line marking the seaward limit of inland waters, and extending seaward a distance of 3 miles.

(m) "Uninspected vessel" means any vessel that is not required to be inspected under 46 CFR Chapter I.

(n) "United States" includes the States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Canal Zone, and the Trust Territory of the Pacific Islands.

(o) "Vessel" includes every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on the waters of the United States.

(p) "Fecal coliform bacteria" are those organisms associated with the intestine of warm-blooded animals that are commonly used to indicate the presence of fecal material and the potential presence of organisms capable of causing human disease.

(q) "Type I marine sanitation device" means a device that, under the test conditions described in 159.123 and 159.125, produces an effluent having a fecal coliform bacteria count not greater than 1,000 per 100 milliliters and no visible floating solids.

(r) "Type II marine sanitation device" means a device that, under the test conditions described in 159.126 and 159.126a, produces an effluent having a fecal coliform bacteria count not greater than 150 milligrams per liter.

(s) "Type III marine sanitation device" means a device that is designed to prevent the overboard discharge of treated or untreated sewage or any waste derived from sewage.

159.7 REQUIREMENTS FOR VESSEL OPERATORS

(a) On and after January 30, 1977 no person may operate any new vessel equipped with installed toilet facilities, unless it is equipped with an operable Type I, II or III device that has a label placed on it under 159.16 or that is certified under 159.12 or 159.12a.

(b) After January 30, 1980 no person may operate any new vessel equipped with installed toilet facilities unless it is equipped with:

(1) An operable Type II or III device that has a label placed on it under 159.16 or that is certified under 159.12 or 159.12a; or

(2) An operable Type I device installed on the vessel before January 31, 1980, that has a label placed on it under 159.16 or that is certified under 159.12;

(c) After January 30, 1980, no person may operate any existing vessel equipped with installed toilet facilities unless it is equipped with:

(1) An operable Type II or III device that

has a label placed on it under 159.16 or that is certified under 159.12 or 159.12a; or

(2) An operable Type I device installed on the vessel before January 31, 1978, that has a label placed on it under 159.16 or that is certified under 159.12.

NOTE: The EPA standards state that in freshwater lakes, freshwater reservoirs or other freshwater impoundments whose inlets or outlets are such as to prevent the ingress or egress by vessel traffic subject to this regulation, or in rivers not capable of navigation by interstate vessel traffic subject to this regulation; marine sanitation devices certified by the U.S. Coast Guard installed on all vessels shall be designed and operated to prevent the overboard discharge of sewage, treated or untreated, or of any waste derived from sewage. The EPA standards further state that this shall not be construed to prohibit the carriage of Coast Guard-certified flow-through treatment devices which have ben secured so as to prevent such discharges. They also state that waters where a Coast Guard-certified marine sanitation device permitting discharge is allowed include coastal waters and estuaries, the Great Lakes and interconnected waterways, freshwater lakes and impoundments accessible through locks, and other flowing waters that are navigable interstate by vessels subject to this regulation (40 CFR 140.3)."

**The Clean Water Act and No Discharge Zones**. It is clear that many boaters, in direct violation of Federal Regulations, discharge raw sewage into surface waters. These actions will have a negative net result on the quality of local waterways. Some communities have discussed or have implemented No Discharge Areas, which effectively eliminate any release of sewage, treated or otherwise.

Section 312 of the Clean Water Act regulates vessel discharge of sewage and the designation of No Discharge Areas. The following summary is from a report issued by the Environmental Protection Agency titled **"Guidance for States and Municipalities seeking No Discharge Area designation for New England Coastal Waters"** issued June 24, 1991.

"Federal statutory authority to regulate vessel sewage discharges and MSDs was established with passage of the Federal Water Pollution Control Act of 1972. This law was amended in 1978 with passage of the Clean Water Act, and again in 1987 by the Water Quality Act. The statute is now commonly referred to as the Clean Water Act. The primary goal of Section 312 of the Clean Water Act is to reduce direct vessel sewage discharges to surface waters. Section 312 sets forth requirements for MSDs on boats and enables states to apply to EPA for the authority to prohibit discharges of all boat wastes, whether treated or untreated. Treatment, and in specific locations, complete prohibition of vessel sewage discharges will improve water quality and afford additional protection to marine life. In striving to achieve its goal, the law also provides additional protection to human health. The regulation of MSDs is of particular importance in coastal embayments where marinas and other boating facilities are located because of the high concentration of boats, reduced tidal flushing capacity, and general proximity to sensitive resource areas.

Marine Sanitation devices or MSDs are holding tanks or treatment and discharge systems (T/D) that are classified by the Coast Guard as either Type I, Type II or Type III. The basis for these classifications is Section 312(b)(1) of the Act, which authorized EPA, with assistance from the Coast Guard to: "...promulgate Federal standards of performance for marine sanitation devices which shall be designed to prevent the discharge of untreated or inadequately treated sewage into or upon the navigable waters from new vessels and existing vessels, except vessels not equipped with installed toilet facilities."

Section 312(b)(1) also directed the Coast Guard to promulgate regulations "governing the design, construction, installation, and operation of any marine

sanitation device" on board vessels with installed toilets. Type I MSDs (acceptable only for boats 65 feet or less in length) will produce an effluent which will not exceed a fecal coliform bacteria count of 1000 parts per 100 milliliters and have no visible floating solids. A Type II MSD (required on boats over 65 feet) will produce an effluent which does not exceed a fecal coliform bacteria count of 200 parts per 100 milliliters, and have suspended solids not greater than 150 milligrams per liter. Type III MSDs are no-discharge systems, and are designed to prevent the discharge of any treated or untreated sewage. Holding tanks are one type of Type III MSD. Type III MSDs are the only MSDs acceptable for use in areas designated by EPA as no-discharge areas.

EPA may grant no-discharge status to those areas that are particularly sensitive to contamination and will benefit from a complete prohibition of all vessel sewage discharges. Sections 312(f)(3) and (f)(4) describe the statutory requirements for no-discharge designation.

**Enforcement of No-Discharge Areas.** Enforcement Authority-Section 312(k). EPA feels that two of the most important factors in successfully implementing a no-discharge program are providing "adequate and reasonably available" pump-out facilities and conducting a comprehensive boater education program. The third important factor is an effective enforcement program. Enforcement of the standards promulgated pursuant to Section 312 is covered under Section 312(k) of the Clean Water Act. Section 312(k), as amended, states that: "The provisions of this section shall be enforced by the Secretary of the Department in which the Coast Guard is operating and he may utilize by agreement, with or without reimbursement, law enforcement officers or other personnel and facilities of the (EPA) Administrator, other Federal agencies, *or the States* to carry out the provisions of this section. The provisions of this section may also be enforced *by a State*." (Emphasis added)

Section 312(k) basically provides three methods of enforcement: (1) the Secretary of the Department in which the Coast Guard is operating shall enforce; (2) Federal and state officials may be enlisted to enforce by agreement between the Coast Guard and state or agency; and (3) the states may enforce. Due to resource constraints, however, the Coast Guard has been unable to effectively enforce marine sanitation standards for recreational and small commercial vessels. To compensate for the lack of enforcement, the Coast Guard has entered into agreements with states to share enforcement responsibilities.

In New England, the Coast Guard has a "statement of understanding" with each of the five coastal states authorizing them to enforce Federal boating safety standards and forward reports of violations to the Coast Guard for disposition. Under the terms of the agreement, "The State has primary law enforcement responsibility concerning recreational vessels on the waters subject to the jurisdiction of the State." Further, "violations of Federal safety standards for boats and *associated equipment* detected by State marine law enforcement officers will be reported to the Coast Guard for disposition." (Emphasis added) While the agreement does not state so explicitly, the Coast Guard maintains that their intent is that the state, in addition to assuming responsibility for enforcement of boating safety standards, may also assume responsibility for enforcement of MSD and vessel sewage discharge regulations.

EPA Region I strongly encourages states to opt to undertake enforcement of MSD and vessel sewage discharge regulations. Under present law, all revenues gained through enforcement of Federal MSD standards and regulations must revert to the U.S. Treasury. Proposed amendments to the Clean Water Act would, however, enable states and municipalities to retain fines collected through enforcement of Federal vessel sewage discharge regulations.

Under the third method, however, state governments may pass laws that will enable state enforcement officials to assess penalties and collect fines *for violations of Federal standards*. Since the 1977 amendment had already provided for state enforce-

ment by agreement with the Coast Guard, the addition of state authority to enforce in the 1987 amendment means that, in order to avoid impermissible redundancy, the amendment grants to states a different power from that granted under the agreements. The language of the last sentence of subsection (k) grants states enforcement authority without qualification.

States may also delegate enforcement authority to local enforcement officials, such as harbormasters, police and health officers. Although political subdivisions of states may not assess their own penalties, states may share the penalties assessed for violation of their laws enforcing Federal marine sanitation standards with those subdivisions and law enforcement agencies to whom they have delegated their enforcement authority. This will enable states and local subdivisions to receive some monetary compensation for enforcement of Federal standards.

Federal Preemption-Section (312(f)(l). An important issue regarding the enforcement of vessel sewage discharge statute and regulations is described in Section 312(f)(l)(A), which preempts any state or local regulation of MSDs: Section 312(f)(l)(A) states in relevant part: "After the effective date of the initial standards and regulations promulgated under this section, no State or political subdivision thereof shall adopt or enforce any statute or regulation of such State or political subdivision with respect to the design, manufacture, or installation *or use of any marine sanitation device* on any vessel subject to the provisions of this section." (Emphasis added)

Section 312(f)(l)(A) indicates the express intent of Congress to preempt the *standards* for marine sanitation with certain limited exceptions but since 1987 the statute has expressly permitted *state enforcement of Federal standards*. While enforcement was initially entrusted to the Coast Guard, the statute "left room" for exceptions to Federal enforcement in the houseboat and no-discharge area provisions of subsections (f)(1)(B) and (f)(3), and in subsection (k) for delegation of enforcement of states by cooperation agreements. In the 1987 amendment to Section 312(k) Congress expressly provided for independent state enforcement of Federal standards.

A complete prohibition of vessel discharges clearly falls under the category of regulating the use of MSDs. This further clarifies that only the Federal government may confer no-discharge status on coastal waters. As stated previously, however, once Federal approval has been received, enforcement of no-discharge areas is the primary responsibility of either state and (if delegated) local authorities.

Enforcement Methods-Section 312(l). In accepting responsibility for enforcement of these provisions, a state may further delegate enforcement authority to local enforcement officials such as police and conservation officers, harbormasters, and public health officials. Enforcement actions may simulate those taken by Coast Guard officials at the Federal level. According to Section 312(l): "Anyone authorized by the Secretary of the Department in which the Coast Guard is operating to enforce the provisions of this section may, except as to public vessels, (1) board and inspect any vessel upon the navigable waters of the United States and (2) execute any warrant or other process issued by an officer or court of competent jurisdiction."

Officials charged with enforcing no-discharge areas elsewhere in the country have developed innovative enforcement methods. Once such method involves placing fluorescent dye tablets in the holding tanks and marine heads of vessels. If the head is discharged illegally within the no-discharge area, the effluent is readily identifiable and penalties can be assessed. Officials in Avalon Harbor, California have issued 132 citations for illegal discharges since their dye tablet program was initiated in 1988, and the number of violations has been steadily decreasing. Another method involves sealing the Y-value (which allows direct overboard discharges) in a closed position when in the designated area. Marinas and other boating facilities located *within* no-discharge areas can prohibit sew-

age discharges and require the use of pump-out facilities as a condition for mooring and slip rentals. On New Hampshire's Lake Winnipesaukee, marina operators are held accountable by state law for launching boats which are capable of discharging sewage wastes.

An important component of any enforcement program is informing boaters and marina/docking facility operators of the regulatory requirements. Educational strategies include: (1) posting large signs visible to boats entering or moored in the harbor area stating that the harbor is a no-discharge area; (2) providing boaters with written notices of the harbor's no-discharge status when collecting mooring fees; and (3) listing the locations of coastal no-discharge areas and pump-out facilities in boater safety and educational brochures distributed to boaters through vessel registration programs and with other mailings which target boaters. Coast Guard Auxiliary, Power Squadron, and local boating association safety courses can incorporate environmental education on proper MSD use and provide information regarding the location of no-discharge areas."

This part of the Module is applicable to foreign and domestic vessels operated on waters subject to the jurisdiction of the United States, and United States owned vessels located on the high seas.

**Boating While Intoxicated** Part 95 of the Code of Federal Regulations, Title 33 (33 CFR 95) sets the federal standard prohibiting the operation of a vessel while under the influence of alcohol. The following text is a verbatim copy of 33 CFR 95:

"95.010 Definition of terms as used in this part.

"Alcohol" means any from or derivative of ethyl alcohol (ethanol).

"Alcohol concentration" means either grams of alcohol per 100 milliliters of blood, or grams of alcohol per 210 liters of breath.

"Chemical test" means a test which analyzes an individual's breath, blood, urine, saliva and/or other bodily fluids or tissues for evidence of drug or alcohol use.

"Controlled substance" has the same meaning assigned by 21 U.S.C. 802 and includes all substances listed on Schedules I through V as they may be revised from time to time (21 CFR Part 1308).

"Drug" means any substance (other than alcohol) that has known mind or fuction-altering effects on a person, specifically including any psychoactive substance, and including, but not limited to, controlled substances.

"Intoxicant" means any from of alcohol, drug or combination thereof.

"Law enforcement officer" means a Coast Guard commissioned, warrant, or petty officer; or any other law enforcement officer authorized to obtain a chemical test under Federal, State, or local law.

"Marine employer" means the owner, managing operator, charterer, agent, master, or person in charge of a vessel other than a recreational vessel.

"Recreational vessel" means a vessel meeting the definition in 46 U.S.C. 2101 (25) that is then being used only for pleasure.

"Underway" means that a vessel is not at anchor, or made fast to the shore, or aground.

"Vessel" includes every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water.

"Vessel owned in the United States" means any vessel documented or numbered under the laws of the United States; and, any vessel owned by a citizen of the United States that is not documented or numbered by any nation.

95.015 Operating a vessel.

For purposes of this part, an individual is considered to be operating a vessel when:

(a) The individual has an essential role in the operation of recreational vessel underway, including but not limited to navigation of the vessel or control of the vessel's propulsion system.

(b) The individual is a crew member (includ-

ing a licensed individual), pilot, or watchstander not a regular member of the crew, of a vessel other than a recreational vessel.

95.020 Standard of intoxication.

An individual is intoxicated when:

(a) The individual is operating a recreational vessel and has an alcohol concentration of .10 percent by weight or more in their blood;

(b) The individual is operating a vessel other than a recreational vessel and has an alcohol concentration of .04 percent by weight or more in their blood; or,

(c) The individual is operating any vessel and the effect of the intoxicant(s) consumed by the individual on the person's manner, disposition, speech, muscular movement, general appearance or behavior is apparent by observation.

95.025 Adoption of State standards.

(a) This section applies to recreational vessels on waters within the geographical boundaries of a State having a statute defining a percentage of alcohol in the blood for the purpose of establishing that a person operating a vessel is intoxicated or impaired due to alcohol.

(b) If the applicable State statute establishing a standard for determining impairment due to alcohol uses the terms "under the influence," "operating while impaired," or equivalent terminology and does not separately define a percentage of alcohol in the blood for the purpose of establishing "intoxication," the standard containing the highest defined percentage of alcohol in the blood applies in lieu of the standard in 95.020(a). If the applicable State statute contains a standard specifically applicable to establishing intoxication, in addition to standards applicable to other degrees of impairment, the standard specifically applicable to establishing intoxication applies in lieu of the standard in 95.020(a).

(c) For the prepurpose of this part, a standard established by State statute and adopted under this section is applicable to the operation of any recreational vessel on waters within the geographical boundaries of the State.

95.030 Evidence of intoxication.

Acceptable evidence of intoxication includes, but is not limited to:

(a) Personal observation of an individual's manner, disposition, speech, muscular movement, general appearance, or behavior; or,

(b) A chemical test.

95.035 Reasonable cause for directing a chemical test.

(a) Only a law enforcement officer or a marine employer may direct an individual operating a vessel to undergo a chemical test when reasonable cause exists. Reasonable cause exists when:

(1) The individual was directly involved in the occurrence of a marine casualty as defined in Chapter 61 of title 46, United States code, or

(2) The individual is suspected of being in violation of the standards in 95.020 or 95.025.

(b) When an individual is directed to undergo a chemical test, the individual to be tested must be informed of that fact and directed to undergo a test as soon as is practicable.

(c) When practicable, a marine employer should base a determination of the existence of reasonable cause, under paragraph (a) (2) of this section, on observation by two persons.

95.040 Refusal to submit to testing

(a) If an individual refuses to submit to or cooperate in the administration of a timely chemical test when directed by a law enforcement officer based on reasonable

cause, evidence of the refusal is admissible in evidence in any administrative proceeding and the individual will be presumed to be intoxicated.

(b) If an individual refuses to submit to or cooperate in the administration of a timely chemical test when directed by the marine employer based on reasonable cause, evidence of the refusal is admissible in evidence in any administrative proceeding.

95.045 General operation rules for vessels inspected, or subject to inspection, under Chapter 33 of Title 46 United States Code. While on board a vessel inspected, or subject to inspection, under Chapter 33 of Title 46 United States Code, a crewmember (including a licensed individual), pilot, or watchstander not a regular member of the crew:

(a) Shall not perform or attempt to perform any scheduled duties within twelve hours of consuming any alcohol;
(b) Shall not be intoxicated at any time;
(c) Shall not consume any intoxicant while on watch or duty; and
(d) May consume a legal non-prescription or prescription drug provided the drug does not cause the individual to be intoxicated.

95.050 Responsibility for compliance.

(a) The marine employer shall exercise due diligence to assure compliance with the applicable provisions of this part.
(b) If the marine employer has reason to believe that an individual is intoxicated, the marine employer shall not allow that individual to stand watch or perform other duties.

95.055 Penalties.

An individual which is intoxicated when operating a vessel in violation of 46 U.S.C. 2302(c), shall be:

(a) Liable to the United States Government for a civil penalty of not more than $1,000; or,
(b) Fined not more than $5,000, imprisoned for not more than one year, or both."

**Regattas and Marine Parades.** The purpose of Part 100, Title 33 of the Federal Code of Regulations (33 CFR 100) is to provide effective control over regattas and marine parades conducted on the navigable waters of the United States so as to insure safety of life during the event. The following text is a verbatim copy of 33 CFR 100.

33 CFR 100 Regattas and Marine Parades

"100.05 Definition of terms used in this part.

(a) "Regatta" or "marine parade" means an organized water event of limited duration which is conducted according to a prearranged schedule.
(b) [Reserved]
(c) "District Commander" means the Commander of the Coast Guard District in which the regatta or marine parade is intended to be held. (See Part 3 of this chapter for the geographical boundaries of coast Guard Districts.)
(d) "State authority" means any official or agency of a State having power under the law of such State to regulate regattas or marine parades on waters over which such State has jurisdiction.

100.10 Coast Guard-State Agreements

(a) The District Commander is authorized to enter into agreements with State authorities permitting regulation by the State of such classes of regatta or marine parade on the navigable waters of the United States as, in the opinion of the District commander, the State is able to regulate in such a manner as to insure safety of life. All such agreements shall reserve to the district commander the right to regulate any particular regatta or marine parade when he deems such action to be in the public interest.

100.15 Submission of application

(a) An individual or organization planning to hold a regatta or marine parade which, by its nature, circumstances or location, will introduce extra or unusual hazards to the safety of life on the navigable waters of the United States, shall submit an application to the Coast Guard District Commander having cognizance of the area where it is intended to hold such regatta or marine parade. Examples of conditions which are deemed to introduce extra or unusual hazards to the safety of life include but are not limited to: An inherently hazardous competition, the customary presence of commercial or pleasure craft in the area, any obstruction of navigable channel which may reasonably be expected to result, in the expected accumulation of spectator craft.

(b) Where such events are to be held regularly or repeatedly in a single area by an individual or organization, the Commandant or the District Commander may, subject to conditions set from time to time by him, grant a permit for such series of events for a fixed period of time, not to exceed one year.

(c) The application shall be submitted no less than 30 days prior to the start of the proposed event.

(d) The application shall include the following details:

(1) Name and address of sponsoring organization

(2) Name, address and telephone of person or persons in charge of the event

(3) Nature and purpose of the event

(4) Information as to general public interests

(5) Estimated number and types of watercraft participating in the event

(6) Estimated number and types of spectator watercraft

(7) Number of boats being furnished by sponsoring organizations to patrol event

(8) A time schedule and description of events

(9) A section of a chart or scale showing the boundaries of the event, various water courses or areas to be utilized by participants, officials, and spectator craft.

100.20 Action on application for event assigned to State regulation by Coast Guard-State agreement.

(a) Upon receipt of an application for a regatta or marine parade of a type assigned to a State for regulation under a Coast Guard-State agreement, the District Commander will forward the application to the State authority having cognizance of the event. Further processing and decision upon such an application shall be conducted by the State.

100.50 Penalties for violation of regulations

(a) An individual or organization who violates any provisions of these regulations, or any regulation or order issued pursuant to these regulations shall be subject to the following penalties as provided in section 457 in Title 46, U.S. Code;

(1) A licensed officer shall be liable to suspension or revocation of license in the manner now prescribed by law for incompetency or misconduct.

(2) Any person in charge of the navigation of a vessel other than a licensed officer shall be liable to a penalty of $500.

(3) The owner of a vessel (including any corporate officer of a corporation owning the vessel) actually on board shall be liable to a penalty of $500, unless the violation of regulations shall have occurred without his knowledge.

(4) Any other person shall be liable to a penalty of $250.

(b) The Commandant of the Coast Guard is authorized and empowered to mitigate or remit any penalty herein provided for in

the manner prescribed by law for the mitigation or remission of penalties for violation of the navigation laws. (See 33 CFR Subpart 1.07, for procedures regarding assessment, mitigation or remission of penalties.)"

See Section 100.101 to 100.1304 of CFR Title 33 for events which have been established though previous application and agreements. Each section provides information on the regulated ares, effective period and special local regulations. See Appendix III for a copy of a Marine Event Permit form.

**Numbering, and Boating Casualty and Accident Reporting.** Part 174 of Code of Federal Regulations, Title 33 (33 CRF 174) allows for the creation, and sets approval requirements and procedures, for State numbering and casualty reporting systems. The Coast Guard Commandant approves a State numbering system if he finds, after examination of the information submitted by a State, that the State numbering system and vessel casualty reporting system meet the requirements and standards as set by the Federal government.

Part 173 of Code of Federal Regulations, Title 33 (33 CRF 174) prescribes requirements for numbering vessels and for reporting casualties and accidents. The following is a verbatim copy of this part's definitions.

173 CFR 33 Numbering, Casualty, Accident Reporting, Subpart B and C.

"173.3 Definitions

As used in this part:

(a) [Reserved]

(b) "Issuing authority" means a State that has a numbering system approved by the Coast Guard where a number system has not been approved. Issuing authorities are listed in Appendix A of this part.

(c) "Operator" means the person who is in control or in charge of a vessel while it is in use.

(d) "Owner" means the person who claims lawful possession of a vessel by virtue of legal title or equitable interest therein which entitles him to such possession.

(e) "Person" means an individual, firm, partnership, corporation, company, association, joint-stock association, or governmental entity and includes a trustee, receiver, assignee, or similar representative of any of them.

(f) "Reporting authority" means a State that has a numbering system approved by the Coast Guard or the Coast Guard where a numbering system has not been approved. Reporting authorities are listed in Appendix A of this part.

(g) "State" means a State of the United States, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the District of Columbia.

(h) "State of principal use" means the State on whose waters a vessel is used or to be used most during a calendar year.

(i) "Use" means operate, navigate, or employ.

SUBPART B OF 33 CFR 173 - NUMBERING

173.11 Applicability

This subpart applies to each vessel equipped with propulsion machinery of any type used on waters subject to the jurisdiction of the United States and on the high seas beyond the territorial seas for vessels owned in the United States except:

(a) Foreign vessels temporarily using waters subject to U.S. jurisdiction;

(b) Military or public vessels of the United States, except recreational-type public vessels;

(c) A vessel whose owner is a State or subdivision thereof, which is used principally for governmental purposes, and which is clearly identifiable as such;

(d) Ships' lifeboats;
(e) A vessel which has or is required to have a valid marine document as a vessel of the United States.

173.13 Exemptions

Where the Coast Guard issues numbers, the following classes of vessels are exempt, under Section 12303 of Title 46, United States Code, from the numbering provisions of Sections 12301 and 12302 of Title 46, United States Code, and this part:

(a) A vessel that is used exclusively for racing.
(b) A vessel equipped with propulsion machinery of less than 10 horsepower that:
  (1) Is owned by the owner of a vessel for which a valid certificate of number has been issued;
  (2) Displays the number of that numbered vessel followed by the suffix "1" in the manner prescribed in 173.27; and
  (3) Is used as a tender for direct transportation between that vessel and the shore and for no other purpose.

173.15 Vessel number required

(a) Except as provided in 173.17, no person may use a vessel to which this part applies unless:
  (1) It has a number issued on a certificate of number by the issuing authority in the State in which the vessel is principally used; and
  (2) The number is displayed as described in 173.27.
(b) This section does not apply to a vessel for which a valid temporary certificate has been issued to its owner by the issuing authority in the State in which the vessel is principally used.

173.17 Reciprocity

(a) Section 12302(c) of Title 46, United States Code, states: When a vessel is numbered in a State, it is deemed in compliance with the numbering system of a State in which it temporarily is operated.

(b) Section 12302(d) of Title 46, United States Code, states: When a vessel is removed to a new State of principle operation, the issuing authority of that State shall recognize the validity of the number issued by the original State for 60 days.

173.19 Other numbers prohibited.

No person may use a vessel to which this part applies that has any number that is not issued by an issuing authority for that vessel on its forward half.

173.21 Certificate of number required.

(a) Except as provided in 173.13 and 173.17, no person may use a vessel to which this part applies unless it has on board:
  (1) A valid certificate of number or temporary certificate for that vessel issued by the issuing authority in the State in which the vessel is principally used; or
  (2) For the vessel described in paragraph (b) of this section, a copy of the lease or rental agreement, signed by the owner or his authorized representative and by the person leasing or renting the vessel, that contains at least:
    (i) The vessel number that appears on the certificate of number; and
    (ii) The period of time for which the vessel is leased or rented.
(b) Section 12304(a) of Title 46, United States Code, states in part; The certificate of number for a vessel less than 26 feet in length and leased or rented to another for the latter's noncommercial operation of less than 7 days may be retained on shore by the vessel's owner or representative at the place from which the vessel departs or returns to the possession of the owner or the owner's representative.

173.23 Inspection of certification

Each person using a vessel to which this part applies shall present the certificate or lease or rental agreement required by 173.21 to any Federal, State, or local law enforcement officer for inspection at his request.

173.25 Location of certificate of number.

No person using a vessel to which this part applies unless the certificate or lease or rental agreement required by 173.21 is carried on board in such a manner that it can be handed to a person authorized under 1723.23 to inspect it.

173.27 Numbers: Display; size; color.

(a) Each number required by 173.15 must:
  (1) Be painted on or permanently attached to each side of the forward half of the vessel except as allowed by paragraph (b) or required by paragraph (c) of this section;
  (2) Be in plain vertical block characters of not less than 3 inches in height;
  (3) Contrast with the color of the background and be distinctly visible and legible;
  (4) Have spaces or hyphens that are equal to the width of a letter other than "I" or a number other than "1" between the letter and number groupings (Example: DC 5678 EF or DC-5678-EF); and
  (5) Read from left to right.

(b) When a vessel is used by a manufacturer or by a dealer for testing or demonstrating, the number may be painted on or attached to removable plates that are temporarily but firmly attached to each side of the forward half of the vessel.

(c) On vessels so configured that a number on the hull or superstructure would not be easily visible, the number must be painted on or attached to a backing plate that is attached to the forward half of the vessel so that the number is visible from each side of the vessel.

(d) Each number displayed on tender exempted under 173.13 must meet the requirements of paragraph (a) of this section and have a space or hyphen that is equal to the width of a letter other than "I" or a number other than "1" between the suffix and the number. (Example: DC 5678 EF 1 or DC-5678-EF-1.)

173.29 Notification to issuing authority.

A person whose name appears as the owner of a vessel on a certificate of number shall, within 15 days, notify the issuing authority in manner prescribed by the issuing authority of:

(a) Any change in his address;
(b) The theft or recovery of the vessel;
(c) The loss or destruction of a valid certificate of number;
(d) The transfer of all or part of his interest in the vessel; and
(e) The destruction or abandonment of the vessel.

173.31 Surrender of certificate of number

A person whose name appears as the owner of a vessel on a certificate of number shall surrender the certificate in a manner prescribed by the issuing authority within 15 days after it becomes invalid under paragraph (b), (c), (d), or (e) of 173.77.

173.33 Removal of number

The person whose name appears on a certificate of number as the owner of a vessel shall remove the number and validation sticker from the vessel when:

(a) The vessel is documented by the Coast Guard;
(b) The certificate of number is invalid under paragraph (c) of 173.77; or
(c) The vessel is no longer principally used in the State where the certificate was issued.

173.35 Coast Guard validation sticker.

No person may use a vessel except a vessel exempted in 173.13 that has a number issued

by the Coast Guard unless it has the validation sticker issued with the certificate of number displayed within 6 inches of the number."

SUBPART C OF 33 CFR 173 - CASUALTY AND ACCIDENT REPORTING

"173.51 Applicability

(a) This subpart applies to each vessel used on waters subject to the jurisdiction of the United States and on the high seas beyond the territorial seas for vessels owned in the United States that:
  (1) Is used by its operator for recreational purposes; or
  (2) Is required to be numbered under this part.

(b) This subpart does not apply to a vessel subject to inspection under Title 46 U.S.C. Chapter 33.

173.53 Immediate notification of death or disappearance

(a) When, as a result of an occurrence that involves a vessel or its equipment, a person dies or disappears from a vessel, the operator shall, without delay, by the quickest means available, notify the nearest reporting authority listed in Appendix A of this part of:
  (1) The date, time, and exact location of the occurrence;
  (2) The name of each person who died or disappeared;
  (3) The number and name of the vessel; and
  (4) The names and addresses of the owner and operator.

(b) When the operator of a vessel cannot give the notice required by paragraph (a) of this section, each person on board the vessel shall notify the casualty reporting authority or determine that the notice has been given.

173.55 Report of casualty or accident.

(a) The operator of a vessel shall submit the casualty or accident report prescribed in 173.57 to the reporting authority prescribed in 173.59 when, as a result of an occurrence that involves the vessel or its equipment:
  (1) A person dies;
  (2) A person is injured and requires medical treatment beyond first aid;
  (3) Damage to the vessel and other property totals more that $500 or there is a complete loss of the vessel; or
  (4) A person disappears from the vessel under circumstances that indicate death or injury.

(b) A report required by this section must be made:
  (1) Within 48 hours of the occurrence; if a person dies within 24 hours of the occurrence;
  (2) Within 48 hours of the occurrence; if a person is injured and requires medical treatment beyond first aid, or disappears from a vessel; and
  (3) Within 10 days of the occurrence or death if an earlier report required by paragraph (a) of this section, the owner shall submit the casualty or accident report.

173.57 Casualty or Accident Report

Each report required by 173.55 must be in writing, dated upon completion, and signed by the person who prepared it and must contain, if available, at least the following information about the casualty or accident:

(a) The numbers and names of each vessel involved.
(b) The name and address of each owner of each vessel involved.
(c) The name of the nearest city or town, the county, the State, and the body of water.
(d) The time and date the casualty or accident occurred.
(e) The location on the water.
(f) The visibility, water, and water conditions.
(g) The estimated air and water temperatures.

(h) The name, address, age, or date of birth, telephone number, vessel operating experience, and boating safety training of the operator making the report.
(i) The name and address of each operator of each vessel.
(j) The number of persons on board or towed on skiis by each vessel.
(k) The name, address, and date of birth of each person injured or killed.
(l) The cause of each death.
(m) Weather forecasts available to, and weather reports used by, the operator before and during the use of the vessel.
(n) The name and address of each owner of property involved.
(o) The availability and use of personal flotation devices.
(p) The type and amount of each fire extinguisher used.
(q) The nature and extent of each injury.
(r) A description of all property damage and vessel damage with an estimate of the cost of all repairs.
(s) A description of each equipment failure that caused or contributed to the cause of the casualty.
(t) A description of the vessel casualty or accident.
(u) The type of vessel operation (cruising, drifting, fishing, hunting, skiing, racing, or other), and the type of accident (capsizing, sinking, fire, or explosion or other).
(v) The opinion of the person making the report as to the cause of the casualty, including whether or not alcohol or drugs, or both, was a cause or contributed to causing the casualty.
(w) The make, model, type (open, cabin, house, or other), beam width at widest point, length, depth from transom to keel, horsepower, propulsion (outboard, inboard, inboard outdrive, sail, or other), fuel (gas, diesel, or other), construction (wood, steel, aluminum, plastic, fiberglass, or other), and year built (model year), of the reporting operator's vessel.
(x) The name, address, and telephone number of each witness.
(y) The manufacturer's hull identification number, if any, of the reporting operator's vessel.
(z) The name, address, and telephone number of the person submitting the report.

173.59 states that the required reports must be submitted to the reporting authority where the vessel number was issued, or, if the vessel has no number, where the vessel is principally used. If the casualty or accident occurred outside the State where the vessel is numbered or principally used then it must be reported to the authority where the casualty or accident occurred. The state is issuing authority and reporting authority in all States and territories except Alaska.

**Boating Safety Equipment.** Part 175 of the Code of Federal Regulations, Title 33 (33 CFR 175) sets requirements for safety equipment necessary on boats operating on the waters subject to the jurisdiction of the United States, or on the high seas beyond the territorial seas for boats owned in the United States except:

(a) Foreign boats temporarily using waters subject to U.S. jurisdiction.
(b) Military or public boats of the United States, except recreational type public vessels.
(c) A boat whose owner is a State or subdivision thereof, which is used principally for governmental purposes, and which is clearly identifiable as such.
(d) Ship's lifeboats.

The following text is a verbatim copy of the Definitions, Subpart B and Subpart C found in 33 CFR 175.

33 CFR 175 Boating Safety Equipment

"175.3 Definitions
As used in this part:
(a) "Boat" means any vessel manufactured or used primarily for noncommercial use;

leased, rented, or chartered to another for latter's noncommercial use; or engaged in the carrying of six or fewer passengers.

(b) "Recreational boat" means any vessel manufactured or used primarily for noncommercial use; or leased, rented, or chartered to another for the latter's noncommercial use. It does not include a vessel engaged in the carrying of six or fewer passengers.

(c) "Vessel" includes every description of watercraft, other than a seaplane on the water, used of capable of being used as a means of transportation on the water.

(d) "Use" means operate, navigate, or employ.

(e) "Passenger" means every person carried on board a vessel other than:
  (1) The owner or his representative;
  (2) The operator;
  (3) Bona fide members of the crew engaged in the business of the vessel which is being used exclusively for pleasure purposes who has not contributed any consideration for their carriage and who are paid for their services; or
  (4) Any guest on board a vessel which is being used exclusively for pleasure purposes who has not contributed any consideration, directly or indirectly, for his carriage.

(f) "Racing shell, rowing scull, and racing kayak" means a manually propelled boat that is recognized by national or international racing associations for use in competitive racing and one in which all occupants row, scull, or paddle, with the exception of a coxswain, if one is provided, and is not designed to carry and does not carry any equipment not solely for competitive racing."

SUBPART B OF 33 CFR 173 - PERSONAL FLOTATION DEVICES

"175.11 Applicability

This subpart applies to all recreational boats that are propelled or controlled by machinery, sails, oars, paddles, poles, or another vessel except racing shell, rowing sculls, and racing kayaks.

175.13 Definitions

As used in this subpart:

(a) "Personal flotation device" means a device that is approved by the Commandant under 46 CFR Part 160.

(b) "PFD" means "personal flotation device".

175.15 Personal flotation devices required.

(a) Except as provided in 175.17, no person may use a recreational boat less than 16 feet in length or a canoe or kayak unless at least one PFD of the following types of their equivalents listed in Table 175.23 is on board for each person:
  (1) Type I PFD.
  (2) Type II PFD.
  (3) Type III PFD.
  (4) Type IV PFD.

(b) No person may use a recreational boat 16 feet or more in length, except a canoe or kayak, unless at least one PFD of the following types of their equivalents listed in Table 175.23 is on board for each person:
  (1) Type I PFD
  (2) Type II PFD.
  (3) Type III PFD.

(c) no person may use a recreational boat 16 feet or more in length, except a canoe or kayak, unless at least one type IV PFD or its equivalent listed in Table 175.23 is on board in addition to The PFD's required in paragraph (b) of this section.
(Descriptions of PFD's are provided in Appendix XII)

175.17 Exceptions

(a) Before October 1, 1977, a person using a kayak or canoe that is enclosed by a deck and spray skirt need not comply with 175.15(a) if he wears a vest-type lifesav-

ing device that:

(1) Has no less that 150 separate permanently inflated air sacs made of not less than 12 mill polyvinylchoride film and has not less than 13 pounds of positive buoyancy in fresh water; if worn by a person who weighs more than 90 pounds; or

(2) Has no less than 10 separate permanently inflated air sacs made of not less than 12 mill polyvinylchoride film and has not less than 8 1/2 pounds of positive buoyancy in fresh water, if worn by a person who weighs 90 pounds or less.

(b) A type V PFD may be carried in lieu of any PFD required in 175.15 if that type V PFD is approved for the activity in which the recreational boat is being used.

(c) A recreational hybrid PFD may be carried in lieu of another approved PFD. For persons not within an enclosed space, a hybrid PFD will be accepted as meeting Coast Guard carriage requirements only if worn when the boat is underway. It must also be used in accordance with the conditions marked on the PFD and in the owner's manual. The hybrid PFD must be approved and labeled for use on recreational boats.

175.19 Stowage.

(a) No person may use a recreational boat unless each type I, type II, type III, or type V PFD required by 175.15 or 175.17 is readily accessible.

(b) No person may use a recreational boat unless each type IV PFD required by 175.15 is immediately available.

175.21 Conditions: Approval; marking.

No person may use a recreational boat unless each device required by 175.15, or each device allowed by 175.17 is:

(a) In serviceable condition;

(b) Legibly marked with the approval number as specified in 46 CFR Part 160 for items subject to approval; and

(c) Of an appropriate size for the person for whom it is intended."

In addition to the regulations pertaining to PFD's part 181.703 requires each manufacturer to supply appropriate text material as stated in 181.705.

Please refer to Appendix II for additional PFD information.

SUBPART C OF 33CFR 175 - VISUAL DISTRESS SIGNALS

"175.101 Applicability.

(a) This subpart applies, after 31 December 1980, to boats on the coastal waters of the United States and on the high seas beyond the territorial seas for boats owned in the United States.

175.105 Definitions.

(a) "Visual distress signal" means a device that is approved by the Commandant under 46 CFR Part 160 or certified by the manufacturer under 46 CFR Parts 160 and 161.

(b) "Coastal waters" means:

(1) The U.S. waters of the Great Lakes (Lake Erie, Huron, Michigan, Ontario, and Superior);

(2) The territorial seas of the United States; and

(3) Those waters directly connected to the Great Lakes and territorial seas (i.e., bays, sounds, harbors, rivers, inlets, etc.) where any entrance exceeds 2 nautical miles between opposite shorelines to the first point where the largest distance between shorelines narrows to 2 miles, as shown on the current edition of the appropriate National Ocean Service chart used for navigation. Shorelines of islands or points of land present within a waterway are considered when determining the dis-

tance between opposite shorelines.

175.110 Visual distress signals

(a) No person may use a boat 16 feet or more in length or any boat carrying six or less passengers unless visual distress signals selected from the list in 175.30 or the alternatives in 175.135, in the number required, are on board. Devices suitable for day use and devices suitable for night use, or devices suitable for both day and night use, must be carried.

(b) Between sunset and sunrise, no person may use a boas less than 16 feet in length unless visual distress signals suitable for night use, selected from the list in 175.130 or 175.135, in the number required, are on board.

175.113 Launchers.

(a) When a visual distress signal carried to meet the requirements of 175.110 requires a launcher to activate, then a launcher approved under 46 CFR 160.028 must also be carried.

175.115 Exceptions.

The following persons need not comply with 175.110; however, each must carry on board visual distress signals suitable for night use, selected from the list in 175.130 or 175.135, in the number required, between sunset and sunrise:

(a) A person competing in any organized marine parade, regatta, race or similar event;

(b) A person using a manually propelled boat; or

(c) A person using a sailboat of completely open construction, not equipped with propulsion machinery, under 26' in length.

175.120 Stowage

(a) No person may use a boat unless the visual distress signals required by 175.110 are readily accessible.

175.125 Serviceability.

(a) No person may use a boat unless each signal required by 175.110 is in serviceable condition and the service life of the signal, if indicated by a date marked on the signal, has not expired.

175.128 Marking.

(a) No person may use a boat unless each signal required by 175.110 is legibly marked with the approval number or certification statement as specified in 46 CFR Parts 160 and 161.

175.128 Visual distress signals accepted.

(a) Any of the following signals, when carried in the number required, can be used to meet the requirements of 175.110;

(1) An electric distress light meeting the standards of 46 CFR 161.013. One is required to meet the night only requirement.

(2) An orange flag meeting the standards of 46 CFR 160.072. One is required to meet the day only requirement.

(3) Pyrotechnics meeting the standards noted in Table 175.130 (Next page).

(b) Any combination of signal devices selected from the types noted in paragraphs (a) (1), (2) and (3) of this section, when carried in the number required, may be used to meet both day and night requirements. Examples-the combination of two hand held red flares (160.021), and one parachute red flare (160.024 or 160.036) meets both day and night requirements. Three hand held orange smoke (160.037) with one electric distress light (161.013) meet both day and night requirements.

175.135 Existing equipment.

(a) The following types of non-approved pyrotechnic devices will be acceptable as meeting 175.110 until 1 July 1982 so long as they remain in good and serviceable condition:

(1) Pyrotechnic aerial red flares, either hand-held or pistol projected, for "day and night" signal requirement;
(2) Pyrotechnic hand-held or floating orange smoke, for "day only" signal requirement;

(b) Launchers manufactured before 1 January, 1981, which do not have approval numbers are acceptable for use with meteor or parachute signals listed in Table 175.130 (Next page) under 175.130 as long as they remain in serviceable condition.

175.140 Prohibited use.

No person in a boat shall display a visual distress signal on waters to which this subpart applies under any circumstance except a situation where assistance is needed because of immediate or potential danger to the persons on board."

SUBPART D OF 33 CFR 175 - VENTILATION

"175.201 Ventilation

No person may operate a boat built after July 31, 1980, that has a gasoline engine for electrical generation, mechanical power, or propulsion unless it is equipped with an operable ventilation system that meets the requirements of 33 CFR 183.610 (a), (b), (d), (e), and (f) and 183.620(a)."

**Identification of Boats.** Subpart C, Part 181 of the Code of Federal Regulations, Title 33 (33 CRF 181) prescribes the requirements for hull identification numbers on boats. This number is required to be permanantly placed in two different locations on each boat built or imported to the United States. One set of numbers is generally affixed to the stern of the vessel and includes the manufacturers code and year built. The following text is a verbatim copy of Part 181, Subpart C of the Code of Federal Regulations.

SUBPART C OF 33 CFR 181 - IDENTIFICATION OF BOATS

"Source: CGD 79-013, 48 FR 40718, Sept. 9, 1983, unless otherwise noted.

181.21 Purpose, applicability and effective dates.

(a) This subpart prescribes the requirements for identification of boats to which section 4 of the Federal Boat Safety Act of 1971 applies.
(b) These amendments are effective on August 1, 1984, however, a manufacturer may voluntarily comply with this regulation on January 1, 1984.

181.23 Hull identification numbers required.

(a) A manufacturer (or importer), as defined in 181.3 of this part, must identify each boat produced or imported with two hull identification numbers that meet the requirements of this subpart:
(1) A primary hull identification number affixed in accordance with 181.29(a) and (c) of this subpart; and
(2) A duplicate hull identification number affixed in accordance with 181.29(b) and (c) of this subpart.
(b) A person who builds or imports a boat for his or her own use and not for the purposes of sale, must identify that boat with two hull identification numbers that meet the requirements of this subpart.
(c) No person may assign the same hull identification number to more than one boat.

181.25 Hull identification number format.

Each of the hull identification numbers required by 181.23 must consist of twelve characters, uninterrupted by slashes, hyphens, or spaces, as follows:

(a) The first three characters must be a manufacturer identification code assigned under 181.31(a) or the importer designation assigned under 181.31(b).

Table 175.130-Pyrotechnic Signal Devices

| Approval Number under 46 CFR | Device Description | Meets Requirement For | Number Required |
|---|---|---|---|
| 160.021 | Hand Held Red Flare Distress Signals[3] | Day and Night | 3 |
| 160.002 | Floating Orange Smoke Distress Signals | Day Only | 3 |
| 160.024 | Parachute Red Flare Distress Signals | Day and Night[1] | 3 |
| 160.036 | Hand Held Rocket-Propelled Parachute Red Flare Distress Signals | Day and Night | 3 |
| 160.037 | Hand Held Orange Smoke Distress Signals | Day Only | 3 |
| 160.066 | Distress Signal for Boat, Red Aerial Pyrotechnic Flare | Day and Night[2] | 3 |

[1] These signals require use in combination with a suitable launching device approved under 46 CFR 160.028.

[2] These devices may be either meteor or parachute assisted type. Some of these signals may require use in combination with a suitable launching device approved under 46 CFR 160.028.

[3] Must have manufacture date of 1 Oct. 1980 or later.

(b) Characters four through eight must be a serial number assigned by the manufacturer in letters of the English alphabet, or Arabic numerals, or both, except the letters I, O, and Q.

(c) Characters nine and ten must indicate the month and year of certification when a date of certification is required. In all other cases characters nine and ten must indicate the date of manufacture. The date indicated can be no earlier than the date construction or assembly began and no later than the date the boat leaves the place of manufacture or assembly or is imported into the United States for the purpose of sale. Character nine must be indicated using letters of the English alphabet. The first month of the year, January, must be designated by the letter "A", the second month, February, by the letter "B", and so on until the last month of the year, December. Character ten must be the last digit of the year of manufacture or certification and must be an Arabic numeral.

(d) Characters eleven and twelve must indicate the model year using Arabic numerals for the last two numbers of the model year such as "82" for 1982 and "83" for 1983.

181.27 Information displayed near hull identification number.

If additional information is displayed on the boat within two inches of the hull identification number, that information must be separated from the hull identification number by means of borders or must be on a separate label so that it will not be interpreted as part of the hull identification number.

181.29 Hull identification number display.

Two identical hull identification numbers are required to be displayed on each boat hull.

(a) The primary hull identification number must be affixed-

(1) On boats with transoms, to the starboard outboard side of the transom within two inches of the top of the transom, gunwale, or hull/deck joint, whichever is lowest.

(2) On boats without transoms or on boats on which it would be impractical to use the transom, to the starboard outboard side of the hull, aft, within one foot of the stern and within two inches of the top of the hull side, gunwale or hull/deck joint, whichever is lowest.

(3) On catamarans and pontoon boats which have readily replaceable hulls, to the aft crossbeam within one foot of the starboard hull attachment.

(4) If the hull identification number would not be visible, because of rails, fittings, or other accessories, the number must be affixed as near as possible to the location specified in paragraph (a) of this section.

(b) The duplicate hull identification number must be affixed in an unexposed location on the interior of the boat or beneath a fitting or item of hardware.

(c) Each hull identification number must be carved, burned, stamped, embossed, molded, bonded, or otherwise permanently affixed to the boat so that alteration, removal, or replacement would be obvious. If the number is on a separate plate, the plate must be fastened in such a manner that its removal would normally cause some scarring of or damage to the surrounding hull area. A hull identification number must not be attached to parts of the boat that are removable.

(d) The characters of each hull identification number must be no less than one-forth of an inch high."

## APPENDIX I

## U.S. ARMY CORPS GUIDELINES FOR PERMITTING STRUCTURES IN THE COASTAL ZONE

### GENERAL CONDITIONS FOR PERMITS

"a. That all activities identified and authorized herein shall be consistent with the terms and conditions of this permit; and that any activities not specifically identified and authorized herein shall constitute a violation of the terms and conditions of this permit which may result in the modification, suspension or revocation of this permit, in whole or in part, as set forth more specifically in General Conditions "j" or "k" hereto, and in the institution of such legal proceedings as the United States Government may consider appropriate, whether or not this permit has been previously modified, suspended or revoked in whole or in part.

b. That all activities authorized herein shall, if they involve, during their construction or operation, any discharge of pollutants into waters of the United States or ocean waters, be at all times consistent with applicable water quality standards, effluent limitations and standards of performance, prohibitions, and pretreatment standards and management practice established pursuant to the Federal Water Pollution Control Act of 1972 (P.L. 92-500; 86 Stat. 816), the Marine Protection, Research and Sanctuaries Act of 1972 (P.L. 92-532, 86 Stat. 1052), or pursuant to applicable State and local law.

c. That when the activity authorized herein involves a discharge during its construction or operation, of any pollutant (including dredged or fill material ), into waters of the United States, the authorized activity shall, if applicable water quality standards are revised or modified during the term of this permit, be modified, if necessary, to conform with such revised or modified water quality standards within 6 months of the effective date of any revision or modification of water quality standards, or as directed by an implementation plan contained in such revised or modified standards, or within such longer period of time as the District Engineer, in consultation with the Regional Administrator of the Environmental Protection Agency, may determine to be reasonable under the circumstances.

d. That the discharge will not destroy a threatened or endangered species as identified under the Endangered Species Act, or endanger the critical habitat of such species.

e. That the permittee agrees to make every reasonable effort to prosecute the construction of operation of the work authorized herein in a manner so as to minimize any adverse impact of fish, wildlife, and natural environmental values.

f. That the permittee agrees that he/she will prosecute the construction of work authorized herein in a manner so as to minimize any degradation of water quality.

g. That the permittee shall permit the Division Engineer or his authorized representative(s) or designee(s) to make periodic inspections at any time deemed necessary in order to assure that the activity being performed under authority of this permit is in accordance with the terms and conditions prescribed herein.

h. That the permittee shall maintain the structure or work authorized herein in good condition and in accordance with the plans and drawings attached hereto.

i. That this permit does not convey any property rights, either in real estate or material, or any exclusive privileges; and that it does not authorize any injury to property or invasion of rights or any infringement of federal, State or local laws or regulations, nor does it obviate the requirement to obtain State or local assent

required by law for the activity authorized herein.

j. That this permit may be summarily suspended, in whole or in part, upon a finding by the Division Engineer that immediate suspension of the activity authorized herein would be in the general public interest. Such suspension shall be effective upon receipt by the permittee of a written notice thereof which shall indicate (1) the extent of the suspension, (2) the reasons for this action, and (3) any corrective or preventive measures to be taken by the permittee which are deemed necessary by the Division Engineer to abate imminent hazards to the general public interest. The permittee shall take immediate action to comply with the provisions of this notice. Within ten days following receipt of this notice of suspension, the permittee shall take immediate action to comply with the provisions of this notice. Within ten days following receipt of his notice of suspension, the permittee may request a hearing in order to present information relevant to a decision as to whether his/her permit should be reinstated, modified or revoked. If a hearing is requested, it shall be conducted pursuant to procedures prescribed by the chief of Engineers. After completion of the hearing, or within a reasonable time after issuance of the suspension notice to the permittee if no hearing is requested, the permit will either be reinstated, modified, or revoke

k. That this permit may be either modified, suspended or revoked in whole or in part if the Secretary of the Army of his authorized representative determines that there has been a violation of any of the terms or conditions of this permit or that such action would otherwise be in the public interest. Any such modification, suspension, or revocation shall become effective 30 days after receipt by the permittee of written notice of such action which shall specify the facts or conduct warranting same unless (1) within the 30 day period the permittee is able to satisfactorily demonstrate that (a) the alleged violation of the terms and the conditions of this permit did not, in fact, occur; or (b) the alleged violation was accidental, and there permittee has been operating in compliance with the terms and conditions of the permit and is able to provide satisfactory assurances that future operaton shall be in full compliance with the terms and conditions of the permit and is able to provide satisfactory assurances that future operations shall be infull compliance with the terms and conditions of this permit; or (2) within the aforesaid 30-day period, the permittee requests that a public hearing be held to present oral and written evidence concerning the proposed modification, suspension, or revocation. The conduct of this hearing and the procedures for making a final decision either to modify, suspend or revoke this permit in whole or in part shall be pursuant to procedures prescribed by the Chief of Engineers.

l. That in issuing this permit, the government has relied on the information and data which the permittee has provided in connection with his/her permit application. If, subsequent to the issuance of this permit, such information and data prove to be false, incomplete or inaccurate, this permit may be modified, suspended or revoked, in whole or in part, and/or the Government may, in addition, institute appropriate legal proceedings.

m. That any modification, suspension, or revocation of this permit shall not be the basis for any claim for damages against the United States.

n. That the permittee shall notify the Division Engineer at what time the activity authorized herein will be commenced, as far in advance of the time of commencement as the Division Engineer may specify, and of any suspension of work, if for a period of more than one week, resumption of work and its completion.

o. If the activity authorized herein is not completed on or before the stated date on this

permit, if not previously revoked or specifically extended, shall automatically expire.

p. That this permit does not authorize or approve the construction of particular structures, the authorization or approval of which may require authorization by the Congress or other agencies of the Federal Government.

q. That if and when the permittee desires to abandon the activity authorized herein, unless such abandonment is part of a transfer procedure by which the permittee is transferring its interests herein to a third party pursuant to General Condition "t" hereof, he must restore the area to a condition satisfactory to the Division Engineer.

r. That if the recording of this permit is possible under applicable State of local law, the permittee shall take such action as may be necessary to record this permit with the Register of Deeds or other appropriate official charged with the responsibility for maintaining records of title to and interests in real property.

s. That there shall be no unreasonable interference with navigation by the existence or use of the activity authorized herein.

t. That this permit may not be transferred to a third party without prior written notice to the division Engineer by the transferee's written agreement to comply with all terms and conditions of this permit. In addition, if the permittee transfers the interests authorized herein by conveyance of realty, the deed shall reference this permit and the terms and conditions specified herein and this permit shall be recorded along with the deed with the Register of Deeds or other appropriate officials.

u. That this permit does not authorize the interference with any existing or proposed Federal project and that the permittee shall not be entitled to compensation for damage or injury to the structures or work authorized herein which may be caused by or result from existing or future operations undertaken by the United States in the public interest.

v. That no attempt shall be made by the permittee to prevent the full and free use by the public of all navigable waters or at adjacent to the activity authorized by this permit.

w. That if the display of lights and signals on any structure or work authorized herein is not otherwise provided for by law, such lights and signals as may be prescribed by the United States Coast Guard shall be installed and maintained by and at the expense of the permittee.

x. That the permittee, upon receipt of a notice of revocation of this permit or upon its expiration before completion of the authorized structure or work, shall, without expense to the United states and in such time and manner as the Secretary of the Army or his authorized representative may direct, restore the waterway to its former conditions. If the permittee fails to comply with the direction of the Secretary of the Army or his authorized representative, the Secretary or his designee may restore the waterway to its former condition, by contract or otherwise, and recover the cost thereof from the permittee.

y. That the permittee hereby recognizes the possibility that the structure permitted herein may be subject to damage by wave wash from passing vessels. The issuance of this permit does not relieve the permittee from taking all proper steps to insure the integrity of the structure permitted herein and the safety of boats moored thereto from damage by wave wash and the permittee shall not hold the United States liable for any such damage.

z. That any discharge of dredged or fill material into waters of the United States will be carried out in conformity wit the goals and objectives of the EPA Guidelines established pursuant to Section 404(b) of the FWPCA and published

in 40 CFR 230.

aa. That any such discharge will consist of suitable material free from toxic pollutants in other than trace quantities.

bb. That the fill created by any such discharge will be properly maintained to prevent erosion and other non point sources of pollution.

cc. That no such discharge will occur in a component of the National Wild and Scenic River System or in a component of a State wild and scenic river system."

**NATIONWIDE PERMIT CONDITIONS**
(applicable to all states)

"330.5 (b) Conditions. The following special conditions must be followed in order for the nationwide permits identified to be valid:

(1) That any discharge of dredged or fill material will not occur in the proximity of a public water supply intake.

(2) That any discharge of dredged or fill material will not occur in areas of concentrated shellfish production unless the discharge is directly related to shellfish harvesting activity authorized by paragraph (a) (4) of this section.

(3) That the activity will not jeopardize a threatened or endangered species as identified under the Endangered Species Act (ESA), or destroy or adversely modify the critical habitat of such species. In the case of federal agencies, it is the agencies' responsibility to comply with the requirements of the ESA. If the activity may adversely affect any listed species or critical habitat, the district engineer must initiate Section 7 consultation in accordance with the ESA. In such cases, the district engineer may: (i) initiate Section 7 consultation and then, upon completion, authorize the activity under the nationwide permit be adding, if appropriate, activity specific conditions, or (ii) prior to or concurrent with Section 7 consultation he may recommend discretionary authority (See Section 330.8) or use modification, suspension, or revocation procedures (See 33 CFR 325.7).

(4) That the activity shall not significantly disrupt the movement of those species of aquatic life indigenous to the waterbody (unless the primary purpose of the fill is to impound water);

(5) That any discharge of dredged of fill material shall consist of suitable material free from toxic pollutants (see Section 307 of Clean Water Act) in toxic amounts.

(6) That any structure or fill authorized shall be properly maintained.

(7) That the activity will not occur in a component of the National Wild and Scenic River System; nor in a river officially designated by Congress as a "study river" for possible inclusion in the system, while the river is in as official study status;

(8) That the activity shall not cause an unacceptable interference with navigation;"

**SPECIAL REQUIREMENTS AND CONDITIONS FOR GENERAL PERMITS**

The following guidelines are special requirements and conditions for a general permit. General permits apply to activities the Corps has determined are substantially similar in nature and cause minimal environmental impacts, individually and cumulatively.

**"General**

1. No structure or any boat to be docked at it may extend into a channel normally used for navi-

gation or any Federal anchorages/turning basins.

2. Structure authorized by this general permit must not impinge upon the value of:

   a. Historic, cultural, or archaeological sites as identified in the latest published version of the National Register of Historic Places, nor sites eligible for inclusion in this register.

   b. Sites included in the latest published version of the National Register of Natural Landmarks.

   c. Any other areas named in Acts of Congress or Presidential Proclaimtions as National Rivers. National Wilderness Areas, National Seashores, National Recreation Areas, National Lakeshores, National Parks, National Monuments, National Wildlife Refuges, and such areas as may be established under Federal law for similar and related purposes, such as estuaries and marine sanctuaries.

3. All material for buoys, piers, and floats must be consistent with water quality goals.

**Mooring Boats**

4. Individual mooring buoys of usual type, size and construction are hereby authorized, provided that the buoys are not offered for sale or rent and that all other conditions of this permit are met, including those pertaining to local approval authorities and interference with navigation. Persons who intend to install mooring buoys that meet these criteria are no required to submit an application to the Corps of Engineers unless: (a) no duly constituted local approval authority (e.g., Harbormaster) exists, or (b) the Corps specifically request an application.

It should be noted that the Coast Guard requires a vessel attached to a mooring buoy to display the lights prescribed for vessels at anchor.

**Piers (Docks) and Floats**

5. Piers and floats associated with marinas, yacht clubs, boat clubs or other entities that rent or sell mooring space are not authorized.

6. Piers and floats are limited to those that comprise, with any shore/float access ramps included, on contiguous facility.

7. Extensions to existing piers/floats may be authorized under this general permit, provided the entire structure meets all of the conditions outlined herein.

8. Only one pier may be authorized for each waterfront parcel or series of contiguous waterfront parcels under the same ownership, and only if no other piers or similar use structures already serve the parcel(s).

9. It is the intent of this general permit that pristine areas be given close scrutiny. Therefore, no dock or float shall be considered under this general permit in waters:

   of a freshwater river where no dock or float is in place for a distance of on (1) mile up or downstream (along either shore) of the proposed location of the dock under consideration.

   where tidal action exists and no dock or float is in place for a distance of 5 miles up or down the coastal or river shoreline.

10. Piers will be limited to those of open-pile, crib-supported, or float-supported construction, or those which are comprised of sections that employ any of these constructions. Piers of solid-fill construction will not be authorized.

11. Any pier that crosses a special aquatic site must meet the following:

    a. The section(s) crossing the special aquatic site(s) must be of open-pile construction.

    b. The need for crossing the special aquatic site (s) must be clearly justified as the only practical alignment.

    c. Piers that cross more than 100 linear feet of special aquatic site(s) are not eligible under this general permit.

"Special aquatic sites" are defined in detail by the Environmental Protection Agency in Title 40, CFR 230.40 through 230.45, and include sanctuaries, refuges, wetlands, mud flats, vegetated shallows(see below), coral reefs, and riffle and pool complexes.

12. Any section of pier crossing wetlands or vegetated shallows must be:

    a. No wider that six feet, and

    b. Elevated to a height of at least five feet above the bottom elevation of the wetland or vegetated shallows.

"Vegetated shallows" are defined by the Environmental Protection Agency permanently inundated areas that under normal circumstances support communities of rooted aquatic vegetation, such as turtle grass and eelgrass in esturarine or marine systems as well as a number of freshwater species in rivers and lakes.

13. Mats must be used within wetlands to distribute the weight of vehicles and equipment.

14. Any wetland area that is damaged by equipment, vehicles or any aspect of the work must b restored to its original condition by the permittee.

15. Piers are limited to a maximum width of 10 feet (6 feet over wetlands or vegetated shallows-see condition 12).

16. Human habitation, toilets, and the storage of gasoline, oil, grease, or pollutants are prohibited on piers and floats, and all precautions must be taken to prevent contamination of the water by any pollutants.

17. No pier of float may be placed closer than 25 feet to the side property lines or their extensions, nor may any boat docked at the pier/float extend closer that 10 feet to these lines or their extensions, unless:

    a. It is to be a common pier/float for two or more adjoining properties, or

    b. Letters of no objection from affected adjacent owner(s) are forwarded to the Corps of Engineers along with the application for authorization.

CONDITIONS GOVERNING CONSTRUCTION TYPES

18. Open -Pile: In this permit, the term "open-pile construction" includes piers supported by timber piles, concrete columns/piles, steel-pipe piles, or stone-block piles and any concrete footings.
19. Floats:

    a. All floats, whether used for mooring or for pier support, must be positioned waterward of any wetlands or vegetated shallows.

    b. All floats must be anchored, held by piles, or make fast to the shore or a dock, but in all cases must be adequately secured so as to prevent substantial changes in their positions.

    c. Floats used for swimming or mooring that are not linked to the shore by ramps or piers may be authorized, provided the deck area of the float does not exceed 400

square feet and the float is anchored, not held by piles.

20. Cribs:

a. Material used for fill within any crib must be uncontaminated, with all fragments or particles of a minimum size that exceeds the largest opening in the crib walls.

b. Crib-supported construction will only be authorized when the applicant offers clear evidence that alternative constructions would be impractical. However, under no circumstances will cribs be allowed in special aquatic sites by this general permit.

CONDITIONS RELATED TO WATERWAY WIDTH

In addition to the special conditions for wetlands and other special aquatic sites, the following restriction apply:

Note: all measurements pertaining to waterway width will be made from the ordinary or mean low water level of each bank.

21. Waterways Less Than 15 Feet Wide

No pier or float may be placed in a waterway less than 15 feet wide under this general permit.

22. Waterways 15 to 50 Feet Wide

a. The combined, total deck area of a pier and any floats (excluding the area of any ramps) must not exceed 450 square feet, measured from the ordinary or mean high water mark.

b. No pier or float may extend beyond the point which is one-quarter (25%) the distance to the other bank measured from the ordinary or mean low water level, perpendicular to the center line of the waterway.

c. No pier may be placed within 20 feet upstream or downstream of the center line of a existing pier on the opposite bank, measured by projecting the center line of the existing pier toward the bank of the proposed pier.

23. Waterways Wider than 50 Feet

a. The combined, total deck area of a pier and any floats (excluding the area of any ramps) must not exceed 1400 square feet, measured from the ordinary or mean high water mark.

b. No pier or float may extend waterward more that 200 feet, measured perpendicular to the shore from ordinary or mean high water, or one-quarter (25%) the distance to the opposite shore, measured from ordinary or mean low water perpendicular to the centerline of the waterway, whichever is lesser. An exception to the one-quarter (25%) requirement is permissible if neither the facility nor any boat to be docked at it will extend into a channel normally used for navigation (and the facility's total extension from ordinary or mean high water is no more than 200 feet)."

**INFORMATION REQUIRED FROM APPLICANTS FOR CORPS PERMITS FOR EXISTING AND/OR PROPOSED MOORINGS**

"1. Surveyed coordinates of the mooring area based on the applicable state plane grid coordinate system, distances from the mooring area to any nearby physical landmarks and the dimensions of the mooring area. This information is essential for us to be able to review the impacts of these moorings, to easily locate them in the field, to be able to document them

and to be able to insure that they are in strict compliance with any Corps permits that are issued.

2. Applicant must show the accurate location of any other structures, including any other moorings, in the waterway that are near the mooring areas for which the applicant is seeking a Corps permit and the precise distance from these other structures, including moorings, to those subject to the application. You should also identify the name and mailing address of those who own any such other moorings.

3. The exact number of existing boats that are moored at the applicant's facility and the exact number and location of all the existing parking spaces at the applicant's facility must be shown.

4. The exact number, size (provide a range such as 25' to 55' e.g.) and use (commercial or recreational ) of boats to be anchored at the moorings must be shown.

5. The name and address of all shorefront property owners along the shore near any existing and/or any proposed moorings should be shown. It is essential to show any shorefront owners whose riparian rights or waterfront access may possibly be affected by the moorings for which a Corps permit is being sought.

6. An overall plan should be provided showing all the land owned by the applicant that is part of the facility associated with the moorings. Any buildings on the land should be shown and the uses of the land should be indicated.

7. Any local, State or Federal navigation channels or fairways should be clearly and precisely indicated on the drawing so we can ascertain how the moorings and any boats anchored to them will affect navigation in any such channel or fairway.

8. Both waterward and lateral riparian right lines of the applicant should be shown in relation to the mooring area that is the subject of the application. The applicant should note that if they are applying for a Corps permit for moorings that are beyond the applicant's riparian line of rights and we receive objections from abutters, it is not likely we will grant a permit unless the moorings are approved through an acceptable municipal harbor management plan.

9. The mooring areas should be clearly shown and the maximum number of moorings in the area indicated. A rule of thumb for the area needed by a vessel on a single point mooring is a circle with a radius equal to vessel length plus five times the depth of water at high tide. This can be lessened but the minimum should be length plus three times water depth.

10. So that we can understand how an applicant is proposing that we divide up a waterway between public and private use, would you please show us where the applicant contends is the waterward line of riparian right for the shorefront owner on the opposite side of the waterway from the applicant.

11. For applicants for moorings in waterbodies that also are boundaries between municipalities and/or States, please show the precise location of the municipal and/or State boundary in relation to the moorings that are the subject of the application.

12. Please provide a copy of any required local or State approvals that have been granted for any moorings and advise us when the permit was granted and when it expires.

13. For the local municipality that the moorings are located in, we need the number of parking spaces required per vessel or per mooring.

14. For those applicants who already have existing moorings that they do not have a Corps permit for, we need the following specific items:

a. A written statement of the reasons why these moorings were installed without first obtaining written approval from the U.S. Army Corps of Engineers.

b. Was approval obtained from the local harbormaster for any existing moorings? If so, please give us the mane of the harbormaster and tell us the date when this approval expires.

c. For each mooing that now exists, provide the date it was first installed in its exact current location and state whether it has been continuosly maintained in that precise position since it was first installed.

15. A drawing showing the exact location and dimensions of all the existing facilities and structures in the waterway that are associated with the applicant's waterfront property that provides access to and services for the moorings.

16. A statement, signed by a registered engineer or land surveyor, stating that they have researched the State and Federal permits (Corps and any Coast Guard permits) and that all existing structures and/or any fill placed since 18 December 1968, is in substantial compliance with any such permits. This statement should also provide the numbers and dates of all State and Federal permits that were checked as well as the dates of any aerial photography that was reviewed. The preferred means of demonstrating compliance is with copies of any Federal of State permits and aerial photography or surveys verifying existing and historical conditions. For your information, most States, particularly Connecticut, Massachusetts, and Rhode Island, as well as various Federal agencies including the Corps, have detailed historical aerial photos of various harbors and the coast readily available for your inspection."

## GUIDELINES FOR THE PLACEMENT OF FIXED AND FLOATING STRUCTURES IN NAVIGABLE WATERS OF THE UNITED STATES REGULATED BY THE U.S. ARMY CORPS OF ENGINEERS

"This section is included as an example of regional guidelines. Similar, but not necessarily identical, rules are in effect in all Corps Districts.

1. These guidelines have been developed due to the intense pressures of development in our coastal waters and on the adjacent land which have led to increasing conflict between users of these resources. They attempt to provide common sense guidance in allocation of space for structures in navigable waters, recognizing reasonable use expectations of the general public and waterfront landowners. They will be recognized by the Corps in its review of permit applications and in administering its responsibilities in navigable waters for the purpose of reducing conflict in such waters.

2. In general no structures will be permitted in Federal Navigation Projects.

3. In those cases where a project is proposed within two hundred feet (200') of a Federal Navigation Project (FNP) the applicant shall determine and show the state plane coordinates for the extreme lateral limits of his project, the point on structures furthest beyond mean high water (MHW), and the point of closest approach of any structure to the FNP.

4. Similarly no structures which may reasonably be expected to facilitate intrusion into Federal Navigation Projects will be permitted. FNP's are channels and anchorages created at public expense. Examples of intrusions are moored vessels, fish harvesting devices, etc.

5. To preclude intrusions into FNP's appropriate setbacks for structures from the project limits

may be established on a case by case basis. The setbacks can be determined using appropriate criteria such as:

a. Protect maintenance requirements. The typical setback shall be a horizontal distance three (3) times the authorized project depth since Corps projects often specify side slopes of 3H:1V. This would, over the long term, minimize the need, expense and inconvenience of forcing people to remove structures to dredge.

b. Traditional navigation patterns where because of type and size of vessel, channel conditions, fishing or recreational activities, etc., closer approach of structures to a FNP is not in the public interest.

c. The configuration and capacity of structures proposed adjacent to FNP's to facilitate intrusion into it. An example would be a pier capable of mooring vessels longer than itself which would extend in to the FNP. Such structures would require a greater setback than noted above.

d. The presence of adjacent, authorized structures where it would be reasonable for new facilities to conform to their length to provide safe access to the new structure. In some instances this might authorize a smaller setback than noted above.

6. An exception to the no structures in FNP's policy may be considered where the permittee would be a state or local government who would place such structures in a Federal Anchorage to provide greater or more effective use to the public, with the condition that such facilities would be available on an equal access basis to all citizens of the U.S..

7. In a linear waterway, i.e. river, canal, narrow estuary etc., a reasonable area of public water should be maintained in the public interest to sustain activities not specifically related to simply transiting the area in safety. Such activities are cruising, fishing, sailboarding, swimming, water skiing, etc., which require open unobstructed water and should not be eliminated for private interest.

   In such areas no structure shall extend more than 25% of the waterway width at mean low water. This will maintain 50% of the width as open water, an even split between public and private interest.

8. A maximum intrusion into a waterway in areas where there is not a physical width construction is also desirable to preclude excessive loss of public water usage. In general new structures should conform in length to adjacent structures and customary usage of the surrounding area. In areas where existing structures and usage do not seem applicable a reasonable maximum authorized distance beyond mean low water of 600 feet (the traditional cable length) will be used. This may be modified if necessary for site specific conditions or public benefit.

9. Numerous conflicts between neighboring waterfront property owners have arisen during our permit review process concerning the spacing of projects relative to riparian lines (demarcations of rights in the water associated with owning waterfront property). These conflicts are generally concerned with access to piers and floats for mooring vessels. We shall require a minimum setback from the reasonable riparian boundary of 25 feet. This is based on the fact that a medium sized recreational vessel length is in the range of 32 feet. A minimum, turning distance for such a vessel is 1.5 times it's own length, or 48 feet which we have rounded to 50 feet. Each adjacent facility provides half the required turning distance, which is an equitable distribution of the resource.

If abutting property owners reach a mutual agreement regarding structures which has a lesser setback, and both take actions to record, for both properties, any ensuing Corps Permit which will have that agreement as a condition, with the Registrar of Deeds, or other appropriate official charged with the responsibility for maintaining records of title to or interest in real property this guideline may be relaxed.

10. Fields of individual single point moorings shall be defined by a polygonal area whose angle points are defind by coordinates, to within 10 feet, in the applicable state plane coordinate system and by a maximum number of moorings authorized within it. A rule of thumb for the area needed by a vessel on a single point mooring is a circle with a radius equal to vessel length plus five times the depth of water at high tide. This can be reduced but the minimum should be length plus three times water depth.

    These mooring fields should be in reasonably close proximity to the applicants property and if not encompassed by his riparian lines far enough offshore to keep noise disturbance to other shore owners in reasonable limits and not restrict reasonable future development by these owners."

## APPENDIX II

## U.S. COAST GUARD REQUIRMENTS FOR PERSONAL FLOTATION DEVICES

Coast Guard regulations in Part 175 of Title 33, Code of Federal Regulations require personal flotation devices in the following three situations:

"(a) No person may use a recreational boat less than 16 feet in length or a canoe or kayak unless at least one personal flotation device of the following types is on board for each person:
(1) Type I PFD.
(2) Type II PFD.
(3) Type III PFD.
(4) Type IV PFD.

(b) No person may use a recreational boat 16 feet or more in length, except a canoe or kayak, unless at least one personal flotation device of the following types of is on board for each person:
(1) Type I PFD.
(2) Type II PFD.
(3) Type III PFD.

(c) No person may use a recreational boat 16 feet or more in length , except a canoe or kayak, unless at least one Type IV PFD is on board in addition t the PFD's required in paragraph (b).

These are five types of Personal Flotation Devices-

NOTE: the following types of PFD's are designed to perform as described in calm water and when the wearer is not wearing any other flotation material (such as a wetsuit).

Type I.-A Type IPFD has the greatest required buoyancy and is designed to turn most unconscious persons in the water from a face down position to a vertical and slightly backward position and to maintain the person in the vertical and slightly backward position and, therefore, greatly increase his or her chances of survival. The Type I PFD is suitable for all waters, especially for cruising on waters where there is a probability of delayed rescue, such as large bodies of water where it is not likely that a significant number of boats will be in close proximity. This type PFD is the most effective of all the types in rough water. The Type I PFD is easiest to don in any emergency because it is reversible and available in only two sizes- Adult (90 lb. or more) and child (less than 90 lb.) which are universal sizes (designed to fit all persons in the appropriate category).

Type II.-A Type II PFD is designed to turn the wearer to a vertical and slightly backward position in the water. The turning action is not as pronounced as with a Type I and the device will not turn as many persons under the same conditions as the Type I. The Type II PFD is usually more comfortable to wear than the Type I. This type of PFD is normally sized for ease of emergency donning and is available in the following sizes: Adult (more than 90 lb.)- Medium Child (50 lb.- 90 lb.), and two categories of Small Child (less than 50 lb. or less than 30 ib.). Additionally, some models are sized by chest size. You may prefer to use the Type II where there is a probability of quick rescue such as areas where it is common for other persons to be engaged in boating, fishing, and other water activities.

Type III.-The Type III PFD is designed so that the wearer can place himself or herself in a vertical and slightly backward position, and the device will maintain the wearer in that position and have no tendency to turn the wearer face down. A Type III can be the most comfortable, comes in a variety of styles which should be matched to the individual use, and is usually the best choice for water sports, such as skiing, hunting, fishing, canoeing, and kayaking. This type PFD normally comes in many chest sizes and weight ranges: however, some universal sizes are available. You may also prefer to use the Type III where there is a probability of quick rescue such as areas where it is common for other persons to be engaged in boating, fishing, and other water activities.

Type IV.-A Type IV PFD is designed to be grasped and held by the user until rescued as well as to be thrown to a person who has fallen overboard. While the Type IV is acceptable in place of a wearable device in certain instances, this type is suitable only where there is a probability of quick rescue such as areas where it is common for other persons to be engaged in boating, fishing and other ware activities. It is not recommended for non-swimmers and children.

Type V.-A Type V PFD is a PFD approved for restricted uses. No Type V PFD is currently approved for use on recreational boats to meet the mandatory carriage requirements listed in paragraph (a), (b), or (c) above.

**Your Personal Flotation Device**

You are required by Federal Regulations to have at least one Coast Guard approved personal flotation device (PFD) for each person in your recreational boat. You may not use your recreational boat unless all your PFD's are in serviceable condition, are readily accessible, are legibly marked with the Coast Guard approval number, and are of an appropriate size (within the weight range and chest sizes marked on eh PFD) for each person on board.

**Why Do You Need A PFD?**

Your PFD provides buoyancy to help keep your head above the water and to help you remain in a satisfactory position in the water. The average weight of an adult is only 10 to 12 pounds in the water and the buoyancy provided by the PFD will support that weigh in water. Unfortunately, your body weight does not determine how much you will weight in water. In fact, your weight in water changes slightly throughout the day. There is no simple method of determining your weight in water. You should try the device in the water to make sure it supports your mouth out of the water. Remember, all straps, zippers, and tie tapers must be used and of course the PFD must be the proper size (size limitations are on the label).

**Things to Consider About PFD's**

(1) USCG approval of a PFD does not imply that it is ideal for all uses. For instance, there are a number of PFD's which are better suited for water skiing and others for white water canoeing and kayaking. These and other PFD's are labeled accordingly.

(2) Some PFD's are more rugged and durable that others but usually cost more. You should evaluate the trade-offs of cost, your intended use, and how often the PFD will have to be replaced.

(3) The use of most Type IV throwable PFD's usually requires you to grasp the device until rescued, which could prove difficult if there is an extended delay or if you are overcome by hypothermia (loss of body heat to the water). Also it implies that if you find yourself in the water there will be someone available to throw it to you."

Form Approved
OMB No. 2115-0017

DEPARTMENT OF TRANSPORTATION
U. S. COAST GUARD
CG-4423( Rev. 1-81)

# APPLICATION FOR APPROVAL OF MARINE EVENT

DATE SUBMITTED

**INSTRUCTIONS**

1. Submit this form in Triplicate. Please complete on a typewriter or print in black ink *(to permit reproduction)*.
2. This application must reach the District Office at least 30 days prior to the event.
3. Attach a section of a chart or a scale drawing showing boundaries and/or courses and markers contemplated.
4. Submit a copy of your entry requirements, and any special rules pertaining to equipment, rigs or procedures.

1. NAME OF EVENT

2. DATE OF EVENT

3. LOCATION

4. TIME *(from, to)*

5. NAME AND ADDRESS OF SPONSORING ORGANIZATION *(Include Zip Code)*

6. NO. PARTICIPANTS

7. SIZES OF BOATS

8. TYPES OF BOATS

9. NO. SPECTATOR CRAFT

10. DESCRIPTION OF EVENT

11. WILL THIS EVENT INTERFERE OR IMPEDE THE NATURAL FLOW OF TRAFFIC?
[ ] NO [ ] YES *(Explain)*

12. WHAT EXTRA OR UNUSUAL HAZARD *(to participants or non-participants)* WILL BE INTRODUCED INTO THE REGATTA AREA?

13. HAVE ANY OBJECTIONS BEEN RECEIVED FROM OTHER INTERESTED PARTIES?
[ ] NO [ ] YES *(Explain)*

14. VESSELS PROVIDED BY SPONSORING ORGANIZATION FOR SAFETY PURPOSES *(number and description)*

15. DOES THE SPONSORING ORGANIZATION DEEM THEIR PATROL ADEQUATE FOR SAFETY PURPOSES? [ ] YES [ ] NO *(Explain)*

16. IS A COAST GUARD OR COAST GUARD AUXILIARY PATROL REQUESTED FOR CONTROL OF SPECTATOR AND/OR COMMERCIAL TRAFFIC? [ ] NO [ ] YES
*(If YES, how many vessels do you recommend, and why?)*

17. PERSON IN CHARGE

18. WHERE WILL "PERSON IN CHARGE" BE DURING THE EVENT?

19. HOW CAN "PERSON IN CHARGE" BE CONTACTED DURING THE EVENT?

20. PERSON TO BE CONTACTED FOR FURTHER DETAILS *(Name, address, Zip code)*

AREA CODE & TELEPHONE NO. →

*The undersigned has full authority to represent the sponsoring organization*

21. SIGNATURE

22. TITLE

23. ADDRESS *(Include Zip code)*

AREA CODE & TELEPHONE NO. →

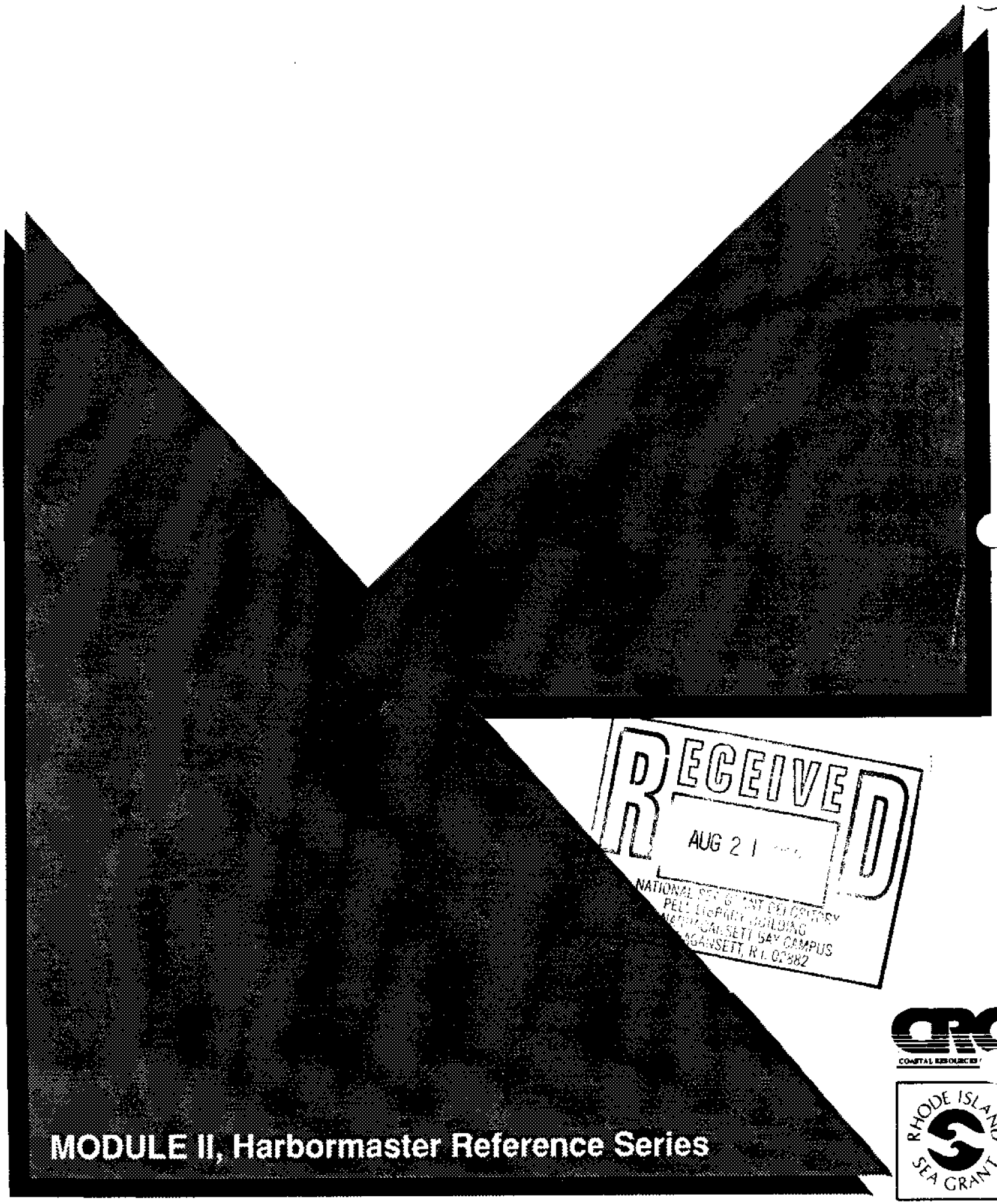
24. TO: ~~Commander(o)~~

_____ ~~Coast Guard District~~

COMMANDER
U.S. COAST GUARD GROUP
~~WOODS HOLE, MA 02543-1099~~

PREVIOUS EDITIONS ARE OBSOLETE

GPO 946-203





# MODULE II, Harbormaster Reference Series

CRC COASTAL RESOURCES

RHODE ISLAND SEA GRANT