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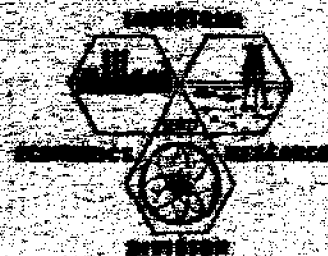
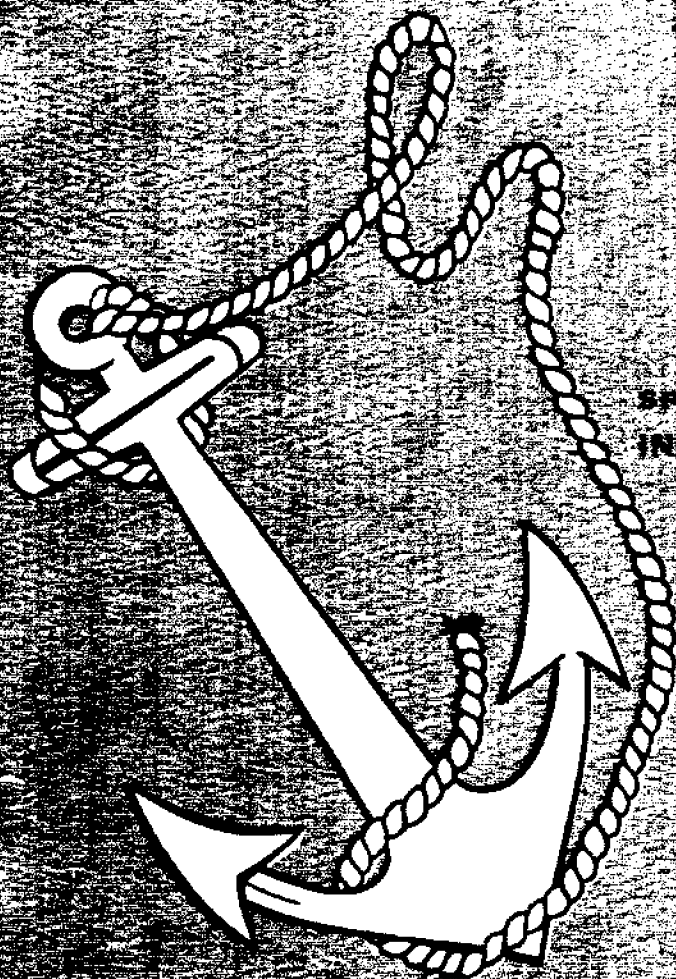
## of the MARINA MANAGEMENT and OPERATION SEMINAR

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Held in  
ARLINGTON, TEXAS

on  
March 28, 1972

SPONSORED BY:  
INDUSTRIAL ECONOMICS RESEARCH DIVISION  
COLLEGE OF ENGINEERING  
and the  
SEA GRANT PROGRAM  
TEXAS A&M UNIVERSITY



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PROCEEDINGS  
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TEXAS A&M UNIVERSITY

Compiled and Edited by  
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College of Engineering  
Texas A&M University  
College Station, Texas

May, 1972

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## FOREWORD

The "leisure boom" has given rise to many types of water-related recreational activities, one of the most popular being recreational boating. Closely related to this activity is the problem of management and operation of boat facilities.

Little guidance has been offered the marina operator; in most cases he has been completely dependent upon his own personal experience in resolving problems which he faced. This conference, conducted by the Industrial Economics Research Division through its Sea Grant Program, was an attempt to provide a forum for the exchange of ideas and current information for the benefit of the entrepreneur. Through their presentations the speakers brought specialized information reflecting the fields of insurance, facilities, safety, and legislation.

The speakers' addresses are published in this volume in order to provide a permanent record for those who attended as well as to disseminate information to a wider audience. Liberty has been taken to edit the presentations for the sake of conciseness.

The Industrial Economics Research Division owes a great debt of gratitude to the speakers who contributed so freely of their time and knowledge in carrying out their assignments. It was mainly their contribution that made the meeting a success.

James R. Bradley, Head  
Industrial Economics Research Division  
Texas A&M University

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## THE SEA GRANT PROGRAM

James R. Bradley, Head  
Industrial Economics Research Division  
Texas Engineering Experiment Station  
Texas A&M University

About three or four years ago, the National Science Foundation began sponsoring a program called the Sea Grant Program. At that time, there were six universities throughout the United States, all located in coastal zones or states that bordered the coast, that were granted sums of money. Texas A&M University received approximately \$450,000 on the first grant. Originally, the program was basically restricted to research. During the intervening four-year period, Sea Grant has gone into what we call research, extension, and advisory activities.

Our Industrial Economics Research Division first participated in the program about 1968, the second year of operation. We entered into the marine resources activities, both in research and advisory services. About a year and a half ago, we brought on our first recreational specialist, Miss Kathryn Delaune. Then in September, 1971, we began what we call the Leisure Economics Department. At that time, Dr. Billie Ingram joined our staff.

We believe that the leisure industry is one of the major economic activities which will take place in the State of Texas and in the nation within the next ten years. We are convinced that this is the answer to many of our problems, and we at Texas A&M University are certainly going to do everything we can to have well-planned programs in the field of recreation to properly utilize leisure.

Regarding the marine advisory services--the purpose of this service as defined by the Sea Grant Program is to disseminate technical information and to provide assistance to companies and organizations engaged in recreation and tourism in order to promote the growth and expansion of firms in the State of Texas.

We have staff people who can come to your town, to your area, to your organization, and work with you in an effort to help solve your problems. We also have expertise in the University upon which we may call to provide the services required to answer your questions and your problems. Most important of all, we have tremendous cooperation from our people in industry and other governmental organizations--some of whom you will hear today--who are willing to come before a group and share their knowledge on a specific subject that is vital to your particular operation and to the other operations in the area of marine resources.

### Marine Recreation

Statistics reveal that one of the most popular water-based recreational activities is boating. Texans own more boats per capita than residents of any other state. The registration of boats grew four times faster in 1970 than did the population of Texas. This information is not new to those of you who are in the recreational boating business.

Closely associated with the upswing in recreational boating is the problem of management and operation of boat facilities. Someone once told me that anyone can run a marina. My answer went something like this, "Well, that's right, if you like boats, if you don't mind working like a deck hand, if you know how to get along with people, if you have the capacity to store up a lot of knowledge, and a lot more other 'if's'." So, actually, anyone cannot run a marina. It's just like any other business; it takes a great deal of skill and it takes a great deal of money.

Marinas, as you know, play a key role in the boating industry. In sales-oriented marinas, brokers often are emphatic, and I quote, "We could double our business if we could offer marina space for each unit sold." With conventional marinas costing anywhere from \$100,000 to \$1.5 million to develop, waterfront land appreciating in value every year, marina investors must plan well and be a hearty breed. I think

they will have to get more hearty as time progresses. Planning to meet local market needs is important to success. We hope when you leave here today you will have something to take back with you that will aid in the success of your business. The only purpose of our conference is for you to be able to make a little more profit today than you did yesterday. The Industrial Economics Research Division is a profit-motivated organization. All of our research is applied research. We try to make a profit for those individuals who use our service.



## MARINA INSURANCE

Phil Brown,  
Senior Vice President  
Houseman-Marsh and McLennan

Almost everybody would agree that a long-winded dissertation on insurance of any kind really isn't a subject that would keep you tensed up and sitting on the edge of your seat, eagerly awaiting the next comment. However, insurance does play a very important role in business, particularly marina operations, because many of you lease land or operate on land that is leased from a governmental body, individuals or private corporations. Naturally, the lessor requires a certain amount of insurance. Many of these agencies require or insist upon a minimum amount of insurance coverage, but any amount which you take over and above that minimum would certainly be up to you in the management of your business.

The step we consider to be most important in attempting to establish an insurance program is the selection of your agent or broker. This is by far the most important part of your commercial or personal insurance program--the selection of your insurance agent or broker.

In Texas and in the trade territory in the Southwest, the term agent or broker is synonymous. He is the retailer of the insurance program. An agent or a broker works with you, the client, to identify your needs, wants, and desires, in order to determine what you are trying to protect, and what your particular problems are. Every marina, every business enterprise, is entirely different from the one down the road, even though they may be in the same business. Generally, needs and problems vary. I can not over emphasize the importance of selecting the proper insurance agent or broker. It's comparable to choosing the proper CPA or attorney. You are going to be relying upon professional advice and you want to be sure to get someone who is qualified and who responds in the way you want him to respond in putting your program together.

I'd like to comment on insurance programs. I have outlined three basic categories into which a marina or commercial enterprise would be divided from an insurance standpoint. These are not necessarily in order of importance; (1) Public liability and Workmen's Compensation exposure, (2) Physical damage exposure, and (3) Employee benefits.

### Public Liability

Liability insurance provides protection for claims brought by members of the public as a result of bodily injury or property damage arising from operations either on your premises or arising out of loss caused by goods that you sell, handle or dispense.

Your liability insurance is probably the most important category because in this area you are dealing with an unknown factor. If you insure a building or any other physical property, the loss that you will sustain from that is basically fixed. If this building is destroyed, it is relatively easy to know how much you will lose. But, in the case of liability insurance, where you are open to law suits from the general public or from your employees, this is an open-ended deal. You don't know what your loss might be. In fact, if I'm on your premises and am injured or just think I'm injured and allege certain damages against you, theoretically, this could be an open-ended deal. You don't know what I'd sue for nor do you know what a jury would award. From a personal liability standpoint, we would recommend minimum limits of \$100,000 any one person and \$300,000 any one occurrence.

Some of you may be leasing property upon which you operate. You need a minimum of \$100,000 any one person, \$300,000 any one disaster for property damage. The property damage portion takes over in the event you damage someone else's property by running over it, having an explosion, etc.

Let me relate some examples of liability claims. Years ago we used to have trouble with flywheels disintegrating in older motors. If a motor was sold and subsequently worked on by the seller, and if

at a later date the owner was injured starting it, the seller could be held liable.

If a serious fire or explosion occurs due to a gasoline seepage into a boat or area as a result of a hose line on a gas can which you have installed improperly (or alleged to have installed improperly) and bodily injury and property damage occur, the proper liability insurance would respond to defend you. If you are judged to be legally liable, it would respond. This particular policy also can be amended to include your liability coverage for watercraft that you own.

Many marina operators have boats to which they actually have title that they use as a starting boat in sail boat races. This is strictly an accommodation to the people who use their facilities. Remember, you have a liability to the general public every time you take your own boat out, either individually or as a business venture. This particular type of insurance can be extended to cover your liability on owned watercraft.

It would also cover your liability, if properly written, on watercraft that you rent or lease to others. Many operators still rent outboard boats, inboard boats, sail boats, paddle craft, all types of floating boats. In this event, you want to be sure that your liability insurance is properly written and has been endorsed. It is not in the basic policy, so if you do have the exposure, you want to be sure that this particular loop-hole has been closed.

Your insurance should be written on what we call a comprehensive, general liability policy, which automatically picks up additional exposures. At the time your program is put together it is quite possible that you may not be in any of these areas; so it would be written in on an "if-any" basis. At the end of the policy year, your contract would be audited and a premium charged for actual exposures. However, be sure that the policy is written as broad as possible in order to cover new areas of involvement during the policy year. By doing this,

you won't have to call your agent to put him on notice. One of your employees may be conducting operations of which you are not aware.

The rating of this type of insurance is based upon several things. Naturally, you're going to pay the premium for your actual exposure, such as the square footage of your basic location, the number of docks or floats you may be operating, the watercraft exposure, the number of boats that you operate, the horsepower, etc. The general liability policy would also be extended to include any ensuing operations that you have, such as a motel operation, cafe, or restaurant. You may have vending machines. Anything that goes with your marina operation would be covered under this policy.

Your liability policy should also be extended to cover personal injury liability, which would protect you in the event you ask persons to leave the premises, alleging that they were drunk. These individuals could state at a later date that they were improperly run off, that they were embarrassed. These are grounds for a law suit. Whether they win or not may be debatable, but in any event, you need the insurance to protect yourself.

If you refuse to rent a boat to someone because you don't feel he is qualified to operate it, you may have a problem. Later on, this individual could allege that you did not let him have it because of a racial discrimination. There are a number of things in this area that you could be sued for, and it would behoove you to discuss these with your agent.

There is a very nominal charge, generally, to extend injury policy to cover personal injury. This would also include protection from false arrest, imprisonment, malicious prosecution, slander, defamation of character, or violation of rights of privacy. If you have a motel operation, and if you are not properly insured, these things can really cause you some problems.

Check into this area. Ninety percent of the standard liability policies at which we look have not been extended in this area. This has become a real troublesome point for many operators because of alleged discrimination.

Another area in the liability field is contractual liability coverage. Many times, businessmen sign contracts to guarantee liability in the event of a third-party injury. Under a standard liability policy, this contractual relationship is not covered unless the policy is extended to cover it. Here again, most of these extensions can be worked out on a very nominal fee basis. Most insurance companies are no different from you or me; they are in business to attempt to make a profit. They may not recommend the various extensions. So, it gets back to the fact that you should select carefully the agent or broker who will sit down with you in an attempt to figure out what your needs are in order to make the contract as broad as he can, commensurate, obviously, with what you are willing to pay.

Still another area of liability is automobile liability exposure. You may be operating trucks; you may be doing some long hauling. Many of the local marina operators will pick up a boat at Seabrook and move it to Texhoma, or vice versa. We have several customers who move their boats regularly every year. They'll keep it at Lake Dallas, Texhoma, or one of the other lakes nearby for two or three months out of the year. Then, they'll move it down to Seabrook and put it in there in order to be able to use it on the Coast. So, if you are operating over-the-road units, obviously you need automobile liability insurance. The same limits would be recommended--\$100,000 any one person, \$300,000 any one accident and either \$50,000 or \$100,000 on property damage.

A properly written automobile policy should cover not only the vehicles that you own, lease or operate, but also your exposure if one of your employees operates his own car or truck as your agent or on your behalf. For example, all your trucks may be out and you need a particular part from town. You've had something shipped in, and you have to send somebody into town to the bus station to pick it up.

Charlie jumps into his pickup and runs into town. You need coverage that will protect the marina in the event he is involved in a third-party automobile accident. He may or may not have insurance.

You may be traveling on company business; you may go to the boat show every year. Once you get there, you use a rental car. This, again, would protect you in the event that their insurance did not respond to do so.

### Workmen's Compensation

Workmen's Compensation or employers liability insurance is something you would certainly want to consider. Any prudent businessman would obtain it. The coverage and premiums are based upon your payroll, depending upon the areas of business in which you are engaged. Obviously, a dock operator would take one rating. The people working in your restaurants would take another rating. So would clerical workers. The rates do vary, but you need Workmen's Compensation insurance. Again, it would protect you from your employees. If any employee is injured on the job and you do not have Workmen's Compensation insurance, you lose all of your common law defenses. It is a very economical type of insurance which you need to carry.

The standard Workmen's Compensation policy does not protect you from the Longshoremen and Harbor Workers Act, the Continental Shelf Act, or the Jones Act. I don't know how many of you participants are from the coast and are involved in these problems. But, if you are on the coast or on navigable waterways, your Workmen's Compensation and liability insurance should be extended in order to protect you from various other federal acts.

### Physical Damage Exposure

After liability and Workmen's Compensation, you should be concerned with protecting your physical layout itself--your buildings; docks; merchandise; boats in your care, custody, or control being repaired, serviced or overhauled; or boats that you are storing on a fee basis.

Anything that you have in the way of physical properties would have to be insured or at least be considered.

Most of you, probably, are operating on borrowed funds. Generally, the lending institution requires insurance coverage. You may be floor planning; you need insurance to cover your stock.

You may be considering expansion. Some of you are contemplating getting into the marina business. My advice is--before you build, consult an agent or broker and go over your plans with him. Most insurance firms have fire rate and safety engineers on their payrolls who are qualified to make recommendations which could result in a lower insurance rate or premium.

Fixed equipment would generally be covered under your building policy. Your stock or merchandise is not a constant fixed value. Generally, it can be written on a reporting form policy upon which you report the values at the end of the month, quarter, etc. In this instance, you pay premiums in proportion to what your exposure actually is.

Many companies and agents have developed special policies for marinas. One policy, similar to the homeowner's policy, provides coverage for all of these various exposures. I have some sample forms which I will lay on the table; you are welcome to them. These particular forms were developed by the Home Insurance Company and are quite good. (Appendices A and B, pp. 45-47.)

#### Employee Benefits

The third thing you would need to consider is your employee benefit section which includes health insurance, hospitalization, and life insurance. Today, it is possible to get group insurance on groups as small as three individuals. You may or may not want to consider it; you may want to make it available to your employees as a fringe benefit; or you may want to give them an opportunity to buy at a lesser cost than if they had to go out and buy it as an individual.

I have hit only a few high spots. If any of you have any questions, I'll try to answer them.

Question: What do you mean by contractual liability?

Answer: Suppose you sign a lease agreement. Under such a contract you agree to hold the party to whom you are leasing the property, whether it is a building or land or whatever, harmless for anything that would occur as a result of your having the property, building, or whatever. Such a contract is not normally covered under the regular liability policy. You should extend the policy to cover so-called contractual liability and pay a premium for it.

I don't know how many of you go to boat shows. Most marina policies do not cover property away from the premises that are on exhibition at a boat show or being demonstrated. This is very important to remember, because I see several in here who participate regularly in boat shows.

Also, I know that a lot of you go out to demonstrate boats. Be sure that you are covered while you are demonstrating or while the property is away from the premises.

In addition, be sure that your insurance policy covers the loan of a boat for demonstration. Many policies do permit demonstration, but only if you or one of your employees is on board or in charge. Many times, sales personnel will take people to the lake, take them out and let them try the boat, come back and get out of the boat. Then, they'll stay ashore and let Charlie and his wife drive off or sail off, as the case might be. Most demonstration policies do not permit this. So, this again, is something you need to consider.

Question: Suppose someone brings me his boat requesting that I attempt to sell it for him. What is my liability?

Answer: When you have someone else's boat in your care and custody



and are showing it to a prospective customer, then it is your responsibility. If the boat is not seaworthy or anything else, then it is going to be your "thing" and not his.

Question: What is the solution to preventing boat owners who lease space in a marina from bringing in mechanics to work on their boats?

Answer: Many people have solved this problem by just telling the lessee that outside mechanics are not permitted unless the boat owners can furnish a certificate of insurance. If an outsider causes a loss--maybe burns my boat--my insurance company is going to pay me and then try to take it out of the marina operator's hide. That's a very poor practice; if you can, avoid it. A lot of times you get backed into it when your best customer comes up and says, "Look, the only guy I want working on my boat is Charlie. I'm flying him in from out of town to do it." It's a bad deal.

Question: Is this certificate of insurance a standard form?

Answer: You could draw up your own; they're real easy. However, it is a standard form. Anyone can furnish them. Basically, it asks for the information that outlines what coverages are available. The policy can not be amended nor cancelled without 10 to 30 days' notice; so you're protected. I would require this. In fact, a lot of people will ask for certificates of insurance in rental agreements with boat owners.

Question: Our attorney drew up a statement declaring that each owner would be responsible for his own boat. Is that sufficient?

Answer: Well, I'm not an attorney. I took business law at North Texas, but, generally, you can't waive anybody else's rights. This is some defense, but very limited. It beats nothing, and that's about it. If I set fire to the place or cause a loss, the party two stalls down can always bring an action against you. So, you want to be sure you are still protected. Don't rely on anybody else.

If you do require this, and have it in your agreement, you can get credit for it in your own policy. However, I repeat, don't rely upon anybody else for his insurance. There are a lot of people who are still paying off notes at the bank because they relied upon somebody else's insurance!

Question: If you make a boat or product sale on Saturday, and the buyer wants immediate insurance, is it possible that the marina itself can have some sort of a blanket coverage?

Answer: Yes, many do.

Question: Does this have to be some sort of special dealer insurance?

Answer: Well, many dealers put in an open policy. In fact, we have certificates that you can fill out for the buyer that would be binding until something could be formally worked out. There are a number of ways to accomplish this, but that is the easiest way, having agreements wherein you buy the coverage and then have signed certificates which you could hand the buyer. In fact, a lot of people try to provide coverage, in outboard business particularly, for the first year. The buyer really pays for it.

Question: Is the verbal agreement of an agent binding?

Answer: It's like anyone's verbal agreement. It's as good as the person is. Most agents have a certain amount of binding authority.

Here's an example. You sell or buy a boat and call your agent and ask him for a binder. If he agrees, it's bound, this is, if he is not overextending his authority. Suppose you have a loss--a liability claim. Maybe the agent meant he was binding only physical damage. Then, you find yourself without coverage.

Question: What does an insurance agent use as a guide for rating?

Answer: On a marina, I can tell you how we would operate. We have a separate division, the protection division, which sets up an inspection program. We work with the operator before the docks are put in, if possible, in an attempt to have the facility built to the standards we set. The rates vary, as you know, in marine insurance. There are a million different variables--how big a deductible you want to take, etc. Sometimes there's a wide variance of opinions as to what it's worth. You can go out to Lake Ray Hubbard and see two or three operations which have blown away where there was some difference of opinion as to how they were constructed.

When a catastrophe occurs, we visit the site as we did on a couple of these. We didn't feel they were built properly for the rate.

Question: Do you use a standard fire and electrical code as guidelines?

Answer: Yes, very definitely. We consider the fire code, the electrical code, how close you are to public protection from a fire standpoint, who would answer a fire alarm, etc.

Question: Are there any companies which you prefer?

Answer: No, not really. There are a couple of companies which supposedly have a very preferred rate if you allow them to build your marina. They will insure the operation for a year at a 2 percent rate (let's just pick a number out of the air).

Our representative visited the site and gave it a \$5 rating. It won't take you long to figure that's a lot more. Needless to say, the owner went the cheaper route.

Now the underwriters do not believe the installation was properly done. As a result, the rate is considerably higher. These deals aren't permanent; so, if you deal with someone who can guarantee you a lower rate, you had better be sure how long he can guarantee that rate.

Secondly, if the deal does not go through, you need assurance that he will pay the difference in the cost.

Question: By the time an operator plugs up all the holes, his insurance rate is completely above his operating budget. What can be done to prevent such a high rating.

Answer: Well, that may be right, but there are a lot of things that you can do. First of all, build the facility properly. We have hundreds of people in the protection division, who do nothing but inspect plans and offer suggestions. But, go to your agent or broker before you build.

Often the architect draws plans which he claims will be acceptable to the insurance company. Now, if he's going to insure it, that's something else. Don't wait until after you have built to see your agent. Check with him first.

Question: What can be done about insuring against theft?

Answer: About 10 years ago, we tried to get tighter licensing laws comparable to automobile titles, but it was resisted by the dealers, not individuals like yourselves. Perhaps we went to the wrong level. Maybe we should have enlisted your cooperation rather than the manufacturers.

A company was organized, but the effort never got off the ground. We posted rewards and set up a system whereby stolen boats and motors could be reported to a central location. A listing of these items was posted in marinas and docks, and operators were encouraged to report the location of stolen items by offering a reward. However, nobody had time, I guess, to check the serial numbers against the list. As I said, the venture never got off the ground. But, until we set up some type of system, the cost is going to continue to be high. In fact, at the present time, we can't insure some of the equipment you sell if the

owner leaves it at apartments. We have a list of no-no's that's a mile long.

Question: Do you think that having a negotiable title to a boat would curtail this?

Answer: I don't think there's any question about it. The reason I say that is, in Texas, we have a very strong title law on automobiles. We have less theft problem here than you used to have say, in Arkansas, where title law was a joke. The tighter your title laws, the tougher it is for the guy to steal it and market it.

Too, it has to be a larger area than just a state. The last real theft deal in which we were involved included a two-state area. They were stealing equipment here and selling it down in Shreveport and vice versa. So, in my opinion, the solution is going to be found in title laws for a large area.

Question: I know of occasions where a boat has been licensed just on the verbal statement of ownership. How do you get around this?

Answer: I know what you're talking about. I just bought a duck boat up here in McKinney and did the same thing. The man from whom I bought it said he had owned it a long time. Maybe it was "hot." But, it was a good deal, so I bought it. Now it's licensed.

There has been a program started--and it's working in Texas-- wherein you engrave with a vibrating tool your social security number or driver's license number on any movable property. Apply the special decal on the window of your house, store, or your car, and then register that number with the police so, if the item turns up, you can be notified. In high theft areas, such as Dallas, the theft rate has dropped markedly as the result of this procedure. Thieves are business people such as you and I. They steal an item because they think they can sell it. If they can't sell it, then, we think, they'll quit.

It'll make your insurance cost go down.

## FACILITIES

Thomas J. Wood  
Outdoor Recreation Planner  
Fort Worth District  
U. S. Army Corps of Engineers

Purpose of Program

The purpose of any seminar is to share information. It is my purpose to stimulate a discussion concerning marina storage facilities by giving you information on the following subjects: trends in the boating industry, the importance of location, description of floating and dry land facilities, and pricing.

The information I present comes from many sources, such as market studies, Corps of Engineers files, salesmen, marina operators, extension agents, and personal research.

Trends

Sales. A look at the southwest's regional share of the nation's boat sales indicates that this area is receiving a growing share of the national market. For example, in 1967, the southwest region--Arkansas, Louisiana, Oklahoma and Texas--captured 12.8 percent of the national market in boat sales. In 1968, it rose to 13.57 percent, and in 1969, it reached 14.68 percent.

In 1968, Texas' share of the national market in boat sales was second only to Florida. In 1969, Texas captured first place. Although Houston leads the state in boat sales, as a percent of the national market, Dallas is not far behind. However, Fort Worth should be included in any evaluation of the market in this area. Considering Dallas-Fort Worth as one market, this metropolitan area is the largest boat sale market in Texas.

In 1970, 7,100 outboard motors were sold in Dallas-Fort Worth, a drop from 10,400 sold in 1969. This reflects current economic conditions, but dealers are indicating that their 1971 sales were higher than in 1970.

Size. I believe that it is generally true to say that small boats are getting larger and larger boats are getting smaller. For example, the average horsepower of boat motors decreased from 33.1 hp in 1969 to 31.0 hp in 1970. Another indication is that sales of all size classes of boats increased from 1968 to 1969 by approximately 30 percent in Texas, except the 26 to 40 foot class, which has increased less than 20 percent. Most of the motorized boats fall into the 16-26 foot boat class. However, it should be noted that sailboats are increasing in popularity, a fact that has to be considered in marina storage plans.

Owners. Most purchasers of boats in 1969 were in the age bracket of 35-54 years, but first time purchasers were mostly between the ages of 25-45. Turnover of boats approximates auto ownership, as the average owner keeps his boat 4 to 5 years before trading it in or selling it. Invariably, the newest boat has more horses than the last. Many of the owners are two-boat families. In 1969, the percent of boat purchasers owning two boats was 14.1 percent, and of three boats, 3.4 percent.

In a research study I conducted of homeowners around Lake Whitney, I found that over 80 percent of the lake residents owned boats. These Lake Whitney homeowners own over 1,800 boats, 1,000 boat trailers, at an estimated investment of over \$2,000,000. Although most of these owners do not berth their boats in commercial marinas, they do provide a considerable market for other marina services such as gas and oil, boat and motor repair, and supplies. I suspect, too, that these owners also represent a good percentage of boat stall rentals.

Marina Income and Net Profit. The economic success of a marina is comparable to walking on a tightrope. As long as an operator offers service seven days a week, 24 hours a day, he can survive the dips and sways without falling. But if he relaxes a little and gets lazy, he can fall very easily. This analogy is admittedly an oversimplification. But I have observed through the years that the marina which fails more than likely had poor management, not only in service but bookkeeping as well.

Another important reason for failure is under-capitalization. The "mom and pop" type of marina facility is finding that it is impossible to compete with the costs involved in providing for the services demanded by today's market. Even though one has a good location in an area of dense population, the cost of real estate and desirable facilities often generates an overhead too high for the income received.

The national average gross sales volume amounts to around \$300,000 with the national average net profit after owner's pay of \$8,700.

#### Location

Access. Direct, paved access from the principle market area to the marina site is almost a necessity for a successful operation. Not only is good access important from the major arterial highways, but internal access is equally important. Planned parking, separating the boat storage renters from the transient trade, helps prevent customer conflict.

Time-Distance. This old myth about Texas recreationists travelling hundreds of miles for their water recreation experience is just not true today, if it ever was. Most of your customers are going to use the facility which is closest to their home or work in terms of time and/or distance. Chances are, if a boat owner can rent a boat stall 45 minutes from his home 40 miles away, he will rent it over a cheaper stall 30 miles away which takes an hour and 15 minutes to get there. This is why direct access is important.

Clustering. Since good access routes to most lakes are limited, marina operators become somewhat jealous over their location and sometimes resent competition in the same inlet. My observations indicate that if management and service is adequate, clustering of marinas in the same cove or in the same general area can be beneficial. It is difficult for one marina to service all demands. It is much easier and more efficient to specialize and to provide referral service to nearby operators. For example, one marina operator may cater to the



large cruisers, and another marina operator may cater to sailboats, each of which requires considerably different needs in both facilities and services.

Coves and Inlets. While we are on the subject of location, let's dwell a moment on the anchoring of floating facilities. Despite good access, an open shoreline site may be the worst possible location for mooring floating facilities. In the long run, it is more important that floating storage is well protected from wind and waves. Of course, natural coves and inlets offer the most inexpensive protection and most often the best protection. Floating windbreakers just don't do an adequate job of protecting your facilities. Rock and earth jettys are better, but expensive.

#### Floating Facilities

Construction and Design. A typical floor plan for a 10 stall unit is 46 feet in width by 58 feet in length. Each stall would be eight feet in width and just over 19 feet in length which includes a V-notch at the bow. This design allows for a six foot walkway between sides and a three foot walkway between stalls. These dimensions vary with needs. Usually a five foot three board in length is desirable to allow for movement.

Recommended decking is two inch wood nailed to a two by six which in turn are bolted to angle irons. Other material is acceptable, but I have seen considerable crumbling with some of the lightweight concrete. Lightweight concrete, if properly designed, is skid-resistant when wet, long wearing or durable, reflects light, requires little maintenance, and is easily cleaned. However, if it is improperly designed and installed, it can disintegrate overnight or in a very short time.

Recommended roofing would be white, prepainted galvanized steel or aluminum in two pastel colors, installed in alternating panels with a 26 ga. minimum.

Flotation. Flotation is a constant maintenance and replacement headache. Barrels rot out, sink, float away when not secured, are difficult to replace and almost impossible to dispose of once rendered useless. Pontoons are used effectively but are expensive and they, too, deteriorate. Styrofoam and polystyrene have recently entered the flotation market. These, however, are susceptible to gas and oil spills. The Corps recommends barrels filled with expanded styrofoam or polystyrene, but barrels must be clean. Some companies are putting out plastic-coated styrofoam barrels that may prove to be better.

Docks. Docks should be wide enough to allow passage of two customers loaded down with equipment without one being knocked into the lake. Although the Corps recommends dock width of four to six feet, piers extending up to 400 feet from shore should be at least eight feet wide. Railings should also be provided along either side of the docks.

Fluctuation. One aspect common to most Corps flood control lakes is a high degree of water level fluctuation. All lakes, however, experience some degree of fluctuation and design considerations have to allow for it. This can be done by allowing for extension cables and anchors or by designing the facility to ride up and down steel or metal poles. Walkways should be designed to compensate for stationary poles or pivots.

#### Dry Land Storage

I am not too familiar with dry land storage. Indications are that most commercial boat storage--up to 90 percent--is on water. However, on crowded lakes, in metropolitan centers and other locations where choice of lakes is available, dry land storage is becoming quite popular. It is also popular with less affluent boat owners because the cost of berthing is less.

Many marina operators who desire to serve a more diversified public provide both wet and dry storage. Another tendency is for land-based boat repair shops to provide dry land storage. Dry land

storage can be found almost anywhere--behind 7-11 stores, along highways leading to a lake, in the heart of a metropolitan area, or other areas.

The one unique feature, which I'll show you in a color slide in a minute, is the stacking of boats in a large shed using hydraulic lifts. This operator stores a lot of boats in a small area and provides relatively quick service for the customer.

### Pricing

Floating Storage. In checking the pricing of floating storage on Corps lakes, it appears that competition dictates the charge. Generally, the following charges apply.

Covered--Covered storage ranges from \$1.25 to \$1.50 per foot per month. Stalls less than 22 feet in length are priced between \$18.75 to \$30.00 per month; most, however, are \$25.00. Stalls 28 feet by 10 feet or approximately that size range from \$28.00 to \$36.00, with \$30.00 being the most predominant. Stalls 12 feet by 34 feet cost \$33.00 to \$45.00, with \$35.00 the usual. Stalls over 15 feet by 35 feet cost between \$40.00 and \$50.00.

Open--Open floating storage for motorboats and sailboats costs from \$.75 to \$1.00 per foot per month. However, they range from \$12.00 to \$20.00, with \$15.00 the more predominant charge.

Dry Land Storage. Dry land storage is much cheaper. Corps marinas which provide dry land storage charge from \$12.50 to \$15.00 per stall. One operator charged \$20.00 for boats 20 feet and over.

I checked two operators, not connected with a marina, and found that they were somewhat higher. One operator in Fort Worth, approximately three miles from Lake Benbrook, charged \$23.00 per month. The size of the stalls was 10 feet by 26 feet; electricity was furnished. Another dry land storage operator in Bryan, Texas, charged \$1.00 per foot per month in Bryan and \$1.50 per foot per month near Lake Somerville. The

Bryan location is approximately 28 miles from Lake Somerville. The storage unit near the lake is approximately two miles. This indicates that it would cost \$.50 per foot per month to store a boat 26 miles closer to the lake.

## SANITATION: LAWS AND REGULATIONS

Perry E. Robinson, Chief  
Recreation Resources Management Branch  
Fort Worth District  
U. S. Army Corps of Engineers

All of you who have marinas on Corps of Engineers reservoirs realize that we try to conform to all federal and state regulations and require our concessionaires and visitors to do likewise. The U. S. Health Department recommends the following:

1. That we have no direct discharges of inadequately treated sewage into the reservoirs;
2. That where no discharges are allowed, the marine toilets be either removed, sealed, or placed on a holding tank which must be pumped ashore;
3. That all refuse including garbage, cans, bottles and papers be stored in durable containers and disposed of ashore;
4. That the operation of pleasure boats be done a reasonable distance away from all water intakes, beaches, and dams for safety and health reasons; and
5. That boats meet minimum requirements of the U. S. Coast Guard.

In 1966, the State Health Department issued regulations covering the disposal of wastes and water trash. The regulations state that all or any marine toilets located on or within any boats operated on the waters of this state must have a holding tank so constructed as to prevent the removal of the sewage held therein, except by pumping them into offshore facilities. That's really a pretty strong regulation. However, they weakened it by inserting Paragraph 5.2: "Other devices for the control of wastes from water craft may be considered as acceptable, provided that the local health authority assures the State Department in writing that such unit is being inspected and maintained in a manner not to constitute a hazard to health." Some county health authorities will sign these forms and never inspect the units again.

Some of these units out, such as the chlorinator macerators, are good when they are properly operated. But, if you run out of chlorine, all you have to do is put some water in the bottle and it will go right on working. For this reason, I think, the State of Texas does not favor this particular unit. Without a doubt, this 1966 ruling by the State caused a lot of consternation with boat builders as to where to put these tanks so as to balance out the boat.

In 1966, the State passed the law, but no provision was made for people who did comply with this law to get rid of their wastes. As a result, we visited you and asked you to provide this service. (This was not a requirement in your lease agreements. At that time, we did not realize there would be so many boats with heads.) Most of you agreed to furnish the service as soon as the demand was great enough to make it worth your while. This didn't help our situation.

Our next step was to approach each concessionaire with the proposition that the Corps would furnish the initial investment for the installation of marine dump stations on the condition that the lessee operate, maintain, and replace the facility when necessary. The response has been such that we anticipate having a dump station on each of these lakes this coming boating season.

Heretofore, the Corps has not been an enforcement agency. Therefore, even though rules and regulations were in effect, there was not much we could do about them. Beginning May 22, the Corps will have citation authority. This relates directly to Title 36 (see Appendix D, page 53). One of the items in Title 36 deals with the discharging of sewage and garbage or other pollutants. These must be deposited ashore. The dumping and unauthorized disposal in any manner of refuse, garbage, rubbish, trash, or litter of any kind on land and water is prohibited. All commercial operations or activities must be in accordance with their lease agreement. This summer our plans are to have a lake patrol on some of the reservoirs. We cannot place a ranger on every lake until the economy eases up. We are going to give a lot of verbal directions,

and we will probably issue a number of warning citations. However, I do not believe that we will issue very many actual citations that carry a fine.

At the present time we have not established the forfeiture rates. We are considering the plan utilized in Cumberland, Kentucky, which carries a \$25 fine for illegal dumping.

One thing which we get frequent complaints about is that houseboats cabin cruisers, or other vessels are not to be used for human habitation at a fixed or permanent mooring point. In other words, no overnight living on the boat in the marina. They can go out of your marina, anchor out in the lake, and spend the night. But, they cannot spend the night at a fixed or permanent mooring point.

In reality, the responsibility of enforcement should not belong to the Corps. While most of our reservoirs are flood controls, they are also a source of water supply. According to state law, the water purveyor--whether it be a municipality, a river authority, or a water district--may enforce any regulation which it deems necessary to protect the quality of the water.

## SAFETY\*

John Kidd  
Chief, Safety Office  
Fort Worth District  
U. S. Army Corps of Engineers

The Occupational Safety and Health Act of 1970 covers all business that employs one or more persons and affects Interstate Commerce. With the law comes safety standards and with the standards comes a means of enforcement. Naturally, ignorance is no excuse under any law, and an uninformed employer without knowledge of his responsibility under these new laws could be hit with so many penalties that he could never recover. He could end up paying as much as \$20,000 for each violation or one year in jail or both! Ordinarily, a facility will not be inspected by the Department of Labor unless an employee is killed or unless a complaint of unsafe working conditions is received by the Department of Labor. I recommend, for your protection, that you investigate your responsibility under the law.

At present, the Fort Worth District civil area has a total of 17 reservoirs. Normally, in our inspections we look at such items as access, electrical installation, fueling areas, signs and buoys, hazardous conditions, etc.

As a basis for our inspections, we use the National Fire Codes. The National Fire Prevention Association was organized in 1896 to promote the science and improve the methods of fire protection and prevention, to obtain and circulate information on those subjects, and to secure the cooperation of its members in establishing proper safeguards against loss of life and property by fire. The Association is an international, non-profit, technical and educational organization.

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\*This was a slide presentation. The information presented has been condensed for the reading audience.



Its members include over 200 national and regional societies and associations and over 25,000 individuals, corporations, and organizations. The National Fire Codes consist of 10 volumes. The code with which we are primarily concerned is the National Electrical code and Volume 10 which has the Fire Protection Standards for marinas and boatyards. It is the intent of these standards to provide a minimum acceptable level of safety to life and property from fire and related hazards at establishments used for the construction, repair, storage, launching, berthing, and fueling of small craft.

Access. Access to marinas is a major problem due to the different types of terrain and levels of lakes. Certain regulations have been established.

1. A minimum of one handrail shall be provided along access to marinas. It shall be well constructed with a height of 42 inches. Mooring piers exceeding 50 feet in length shall be not less than four feet wide.
2. Accessways should be unobstructed.
3. Sound decking should be provided.
4. Access should be provided between fueling and berthing areas.

Electrical Installation. The code states that all electrical wiring, conduits, enclosures, equipment, and the provision of circuit protective devices, shall conform to the applicable requirements of the National Electrical Code and to the applicable requirements of this standard. In addition to the grounding provided by the conduit system, there shall be installed a common grounding conductor of not less than No. 12 AWG arranged in accordance with the requirements of the National Electrical Code. Said grounding conductor shall terminate at the distribution panel ground.

The code requires that all receptacles shall be installed in enclosures and shall be equipped with an approved means of preventing the entrance of water by rain or splash to the receptacle contacts

when the receptacle is not in use. The receptacle shall be designed to receive a plug having an approved means of locking to the receptacle and completing the sealing of the receptacle opening.

The code talks about damp and wet locations. For damp locations the entire electrical system shall be composed of material approved for use in areas exposed to the weather, with equipment approved as weather-proof. For wet locations the entire electrical system shall be composed of materials suitable for compliance with the definition of "watertight." The code defines the difference between a damp and wet location such as floating piers and landing which are permitted to rise with water levels. Such floating piers and landings will have a datum-level at the deck surface of the pier landing stage of two feet above the water. Anything above this two foot level is considered to be a damp location.

The code requires a complete inspection of all electrical wiring, ground connections, conduits, hangers, support connections, outlets, appliances, devices and portable cords installed or used in a marina, boatyard, boat basin or similar establishment shall be made at intervals of not more than 30 days by an assigned representative of the management.

Lighting fixtures shall conform to the requirements of the National Electrical Code and shall be located to prevent damage by contact with stored or moving materials. The National Electrical Code states that fixtures installed in damp or wet locations shall be approved for such locations and shall be so constructed or installed that water cannot enter or accumulate in wire ways, lampholders, or other electrical parts. All fixtures installed in wet or damp locations shall be marked as such.

Fueling Areas. The code requires that dispensing areas shall be located from other structures so as to provide room for safe ingress and egress of craft to be fueled. Dispensing units shall in all cases be at least 25 feet from any activity not associated with handling of

fuel. The code says that fueling from cans shall be prohibited at berths, but may be permitted at the fueling station.

Signs and Buoys. Marinas should display safe boating signs indicating the required equipment as well as safe operating rules. The code requires that smoking shall be prohibited and "No Smoking" signs posted in such locations as fueling stations, areas used for the storage and handling of fuels or other flammable liquids, boat storage sheds, paint and wood-working shops, sail lofts, battery charging rooms, boat locker rooms, storage rooms and other such locations as management may designate.

Buoys indicating speed limits should be available.

Hazardous Conditions. Areas should be inspected at regular, frequent intervals for the express purpose of eliminating hazardous conditions. The code requires that a portable fire extinguisher of approved type and suitable to the hazard and circumstances shall be provided throughout the property within 50 feet of any point.

A barbecue pit is a common sight at a lot of marinas in the berthing area. The use of open flames and lighting fluids presents quite a fire hazard to the boat owners.

Marinas can promote safety through active safety programs. Management is responsible for planning and implementing a program for fire prevention and protection, and its attitudes toward such matters will inevitably be reflected in the attitudes and behavior of employees and boat owners. Management must establish and enforce fire prevention regulations and is responsible for the provision and maintenance of fire protection equipment. It is essential that all applicable federal, state, and local laws, ordinances and regulations be understood and complied with.

It is also the responsibility of management to train employees in fire prevention and proper emergency action in the event of a fire, to

provide the necessary equipment to control the spread of fire and to handle any necessary movement or evacuation of boats.

I have just scratched the surface on marina safety. I think you can see from the slides that management is not providing the level of safety that is required to protect life and property. I hope you will go back to your areas and make a safety inspection to see what you can come up with. It might be real surprising!

## ANTI-POLLUTION: LAWS AND REGULATIONS

Samuel "Rex" Boyd,  
Reservoir Manager, Grapevine Lake  
Fort Worth District  
U. S. Army Corps of Engineers

Considering the dollar return, you cannot possibly do everything that you would like to do in pollution work. But, of this one thing I am firmly convinced--anti-pollution will pay in your operation.

Let's think about pollution. What is it? Is all pollution bad?

Basically, there are four categories of pollution: land, water, air, and noise. At Lake Grapevine we are confronted with a tremendous amount of noise pollution from outboard motors, mini-bikes, etc. All of us here today, however, are interested primarily in water pollution.

Before we become further involved in our discussion of water pollution, I must revert back to my earlier question--Is all pollution bad? Let me illustrate my point. At the outset, I'm going to declare that all pollution is not bad.

Back in 1960, prior to the construction of the Sam Rayburn reservoir, there was much concern expressed about the pollutants that were being dumped into the river by a large paper manufacturing industry. Four million dollars were spent in a study to determine what was killing the fish. The study revealed that the microscopic particles of wood fiber, through a decaying process, were utilizing the dissolved oxygen in the water. As a result, ponds were constructed to filter out the effluents before releasing the water into the river. This process succeeded in removing the wood fibers from the water before it reached the lake. However, the color of the water was not changed. As a result, fishermen continued to complain about the black water that the plant was discharging. They did not realize that even though the waste water was discolored, it was not a bad pollutant.

One of the main problems that we find in a marina operation is the spilling of fuels and lubricants. Metropolitan areas have a particular problem, because every boat owner wants to bring his own gas can and fill his boat at the berthing area. Usually, a little fuel is spilled into the boat and into the water. My suggestion in effectively controlling this problem is that we--the Corps--tighten down on all marina operators. That way, the operator who practices strict controls will not lose his customers to an operator who is lax.

Another pollution problem that we need to consider is that of automatic shut-off devices on land-site fuel storage lines connected to floating pumps. Most units are not equipped with these automatic devices. If a leak occurs in a fuel line, it is possible that a whole load of fuel could be dumped into the lake. This can be expensive in two ways: (1) you lose the fuel, and (2) you may lose customers because of the gasoline slick.

Next, let's consider land pollution. Ground litter is a problem in all areas and is costly to pick up. At Grapevine, we have 15,000 acres of water and land and have an excess of 3 million annual visitors who generate a lot of trash. This is an expensive operational item. But, again, if you fail to keep this litter picked up, customers will not come back, even though it is they who are leaving the area looking like a hog pen.

Another pollution problem arises from dock side toilet facilities. It is my opinion that many of these units do not receive proper maintenance. The marina operator should be more responsible for checking his line to assure against leakage.

One of the biggest problems with which I am confronted at Grapevine relates to floating restaurant facilities. You, the operator, may not be the polluter. But, have you considered the individual user who buys a hamburger and a drink in a styrofoam cup? He eats the 'burger down to the last two or three bites and has had enough. He

wads up the paper, throws it and the remnants of the sandwich into the lake. He finishes his drink and disposes of the styrofoam cup into the water. Away they float.

Another source of pollution is the land side disposal of waste from dock side. In 1967, the Texas State Health Department passed legislation requiring all disposal systems to be located 75 feet horizontally from the spillway elevation or the 50 year flood contour, whichever was the lower line. For some reason or other, this requirement is not being enforced. Some operators just pick out a site for their septic tank, draw up the plans, take them to the county health officer for his approval and never check on the requirements. If the reservoir manager is not familiar with the law and does not correct the error, the operator ends up with a tank that is not legally acceptable.

Another misconception about septic tanks is that they can be located anywhere just as long as 250 feet of line are installed. This is not so. There are some soils that are not porous enough. The circulation factor of the soil should be established prior to determining the location of the tank. In some instances a continuous aeration plant may be required.

The last pollution problem which I want to discuss today relates to off-the-road vehicles--mini-bikes, motor bikes, dune buggies, three wheelers, etc. Every time one of these vehicles cuts across the open pasture which is a part of your leased area, he leaves a trail. Someone else uses the trail. Pretty soon the trail becomes a beaten path. The rains come, carry the soil down into your water area, causing pollution. This dispoils your area.

There are several things you can do. First of all, sit down with your reservoir manager and establish guidelines for the operation of these vehicles. On February 8, 1972, the President of the United States signed Executive Order 11644 (see Appendix F, page 75) which states

that all agencies charged with the responsibility of resource management (excepting the State Department and two lakes--Falcon and Hempstead) must submit a plan to regulate the use of off-the-road vehicles. The Corps of Engineers is working on this plan at the present time.

Do you have any questions?

Question: Do you concur with the answer I received from my resident engineer that I do not have to tolerate these vehicles on my operational area inasmuch as they conflict with the intent and purpose of my operation?

Answer: Very definitely so. First of all, I would suggest that those of you who operate facilities on Corps lakes acquire a copy of Title 36 (see Appendix D, p. 53). Study well the section which relates to "Vehicles." The vehicle can be operated under the following provisions: It must be a licensed vehicle, head and tail lamp must be in working order, an inspection sticker must be evident, and the vehicle must be muffled to prevent exceeding the normal noise level. The operator must be licensed to operate a motorcycle (the regular driver's license is not sufficient). He must wear a helmet; he cannot operate at excessive speeds nor "cut wheelies." In other words, the driver is required to drive the vehicle as carefully as an automobile.

Question: Can this regulation be enforced?

Answer: Effective May 22 when the Corps will have the authority to issue citations, we plan to do so at Grapevine Reservoir. At the present time, 4,000 acres of Lake Grapevine are incorporated into the city limits of Grapevine. If you ride a vehicle other than as stipulated in Title 36, it'll cost you \$50 in City Court.

Question: Who's going to enforce it?

Answer: The City of Grapevine is enforcing it right now on the 4,000 acres which are incorporated into the city limits.



Question: We're not incorporated into any city limits; to whom can we go for enforcement?

Answer: Effective the 22nd day of May, solicit help from your reservoir manager.

Question: Can local or county officials enforce the laws?

Answer: Only if the regulations are incorporated into a municipal or county ordinance. Meet with your officials and ask for their help.

The first county in the state to become involved in the Corps of Engineers was Jasper County. The County Commissioner passed a county ordinance which incorporated certain rules and regulations, certain things they wanted enforced, and certain things the Parks and Wildlife Commission wanted to do. This gave the Parks and Wildlife Commission the authority to issue citations.

Question: I still don't understand who the enforcing body is.

Answer: Right now, this is strictly a law with no enforcement. But, effective the 22nd day of May, the Corps will be able to enforce the regulation. This ruling, of course, applies to Corps of Engineers lakes. There is a second Title 36 which applies to Corps of Engineer lakes that are bounded by more than one federal agency, for example: Sam Rayburn and Jackson Hill.

The Corps is not really an enforcement agency. We must rely upon local and county enforcement agencies. If our regulations are accepted by the county or municipality, then they can be enforced. We are still not going to be an enforcement agency with this citation authority. This citation authority does not enable us to arrest a man and take him to court or to the municipal jail. All we're going to do is issue a summons. It's not going to be the final answer. This is just the first step. However, we think it's going to be a big help. I guess

we are the only recreation agency that does not have law enforcement authority.

Question: Is your agency (the Corps) soliciting the support of counties?

Answer: We surely are. We want them to continue to give us all the help they can. We're hoping the citation authority will help them. Let me say again. We need all the help we can get.

Thank you.

APPENDICES

**MARINA OPERATORS LIABILITY CLAUSES**

To be attached to and forming part of Policy No. MM of THE HOME INSURANCE COMPANY

1. In consideration of the payment of premium and subject to the limits of liability, exclusions, conditions and other terms of this policy, this Company agrees to pay on behalf of the Insured, all sums which the Insured shall become obligated to pay by reason of the liability imposed upon him (them) by law for loss of or damage to private pleasure watercraft and their motors, the property of others, while in his (their) care, custody or control at the premises scheduled in Clause # 2 for any of the operations listed below.
- A. Repair, alterations or maintenance;
  - B. Storage;
  - C. Mooring at slips, spaces or buoys rented by the Insured;
  - D. Hauling out or launching not in connection with operation A or B;
  - E. Fueling and miscellaneous servicing of a transient nature

2. This Company shall be liable in respect of covered operations only at the following premises, including adjacent moorings and while being shifted or moved by land or water within twenty-five miles of such premises in connection with covered operations.

A. \_\_\_\_\_  
 B. \_\_\_\_\_  
 C. \_\_\_\_\_

3. This Company shall be liable only for the excess over and above \$ \_\_\_\_\_ of the aggregate of claims under all operations covered by this policy arising out of any one loss, accident or occurrence, and its maximum liability arising out of any one loss, accident or occurrence at any scheduled premises shall not exceed the amount listed below including the cost of legal defense as described in clause # 7.

<u>Premises</u>	<u>Limit of Liability</u>
2A.	\$ _____
2B.	\$ _____
2C.	\$ _____

4. The Insured, by the acceptance of this policy, warrants and agrees to keep a complete and accurate record of all gross charges for operations covered by this policy, which record shall be open to examination by representatives of this Company at all times during business hours, and further agrees to make an annual report thereof (collected and uncollected charges) to this Company within fifteen (15) days after the expiration of this policy; the earned premium hereunder to be computed thereon at the following percentage of Gross Charges:

<u>Coverage</u>	
1A.	%
1B.	%
1C.	%
1D. & 1E.	%

5. This policy is issued in consideration of a Deposit Premium of \$ \_\_\_\_\_ and the earned premium, as computed in clause # 4 shall be applied against the Deposit Premium; earned premium in excess of the Deposit Premium to be immediately due and payable to this Company upon filing the annual report and per contra, any unearned premium, being the amount by which the Deposit Premium exceeds the earned premium, shall be refunded.

It is, however, hereby agreed that, except in the event of cancellation of this policy by this Company, the minimum premium hereunder shall be \$ \_\_\_\_\_.

6. Notwithstanding the foregoing, it is hereby expressly understood and agreed that this policy does not cover against nor shall any liability attach hereunder.

- (a) For death or personal injury;
- (b) For any liability assumed under contract or otherwise in extension of the liability imposed upon the Insured by law;
- (c) For any loss or damage caused by or resulting from exceeding the registered or rated lifting capacity of any lift device, marine railway or drydock, or caused by any watercraft owned by the Insured;
- (d) For loss due to infidelity or any act of a dishonest character on the part of the Insured or his (their) sub-contractors or employees;
- (e) For loss of or damage to property held for sale, or to property used by the Insured for rental or chartering purposes;
- (f) For any liability for loss of or damage to covered property caused by or resulting from ice and or freezing as a result of such property being stored or moored afloat during the period from December 1 through April 1;
- (g) For loss, damage or expense which may be recoverable under any other insurance inuring to the benefit of the Insured except as to any excess over and above the amount recoverable thereunder;
- (h) In respect to costs or expenses to make good faulty workmanship, material or design caused or provided by the Insured;

- (i) For loss, damage or expense caused by or resulting from: (1) hostile or warlike action in time of peace or war, including action in hindering, combating or defending against an actual, impending or expected attack; (a) by any government or sovereign power (de jure or de facto), or by any authority maintaining or using military, naval or air forces; or (b) by military, naval or air forces; or (c) by an agent of any such government, power, authority or forces; (2) any weapon of war employing atomic fission or radioactive force whether in time of peace or war; (3) insurrection, rebellion, revolution, civil war, usurped power, or action taken by governmental authority in hindering, combating or defending against such an occurrence, seizure or destruction under quarantine or customs regulations, confiscation by order of any government or public authority;
- (j) For any nuclear incident, reaction, radiation or any radioactive contamination, whether controlled or uncontrolled, and whether the loss, damage, liability or expense be proximately or remotely caused thereby, or be in whole or in part caused by, contributed to, or aggravated by the risks and liabilities insured under this Policy, and whether based on the Insured's negligence or otherwise.
7. This Company agrees to indemnify the Insured to the extent of this policy's proportion of legal costs or fees or expenses of counsel occasioned by the defense of any claim against the Insured for any liability or alleged liability of the Insured covered by this policy, provided that such costs, fees or expenses are incurred with the prior written consent of this Company. The Company shall have the option of naming attorneys to represent the Insured in the defense of any claim, insured hereunder, made against the Insured, and this Company may exercise exclusive direction and control of the said defense. The Insured shall cooperate with this Company and shall not assume any obligations, admit any liability, or incur any expense for which this Company may be liable, without prior written approval.
  8. It is further stipulated and is a consideration for this insurance that in the event of any occurrence which may result in loss, damage and/or expense, for which this Company is or may become liable under this insurance, notice thereof shall be given to this Company as soon as practicable, and further, that any and every process, pleading and paper of any kind relating to such occurrence shall be forwarded promptly to this Company.
  9. In respect of any accident or occurrence likely to give rise to a claim under this insurance, the Insured is obligated to and shall take such steps to protect its (and this Company's) interests as would reasonably be taken in absence of this or similar insurance. This insurance, however, shall be void and of no force or effect, in respect of any accident or occurrence, in the event the Insured shall make or shall have made any admission of liability either before or after such accident or occurrence.
  10. It is expressly understood and agreed that no liability shall attach under this insurance until the liability of the Insured has been determined by final judgment against the Insured or by agreement between the Insured and the Claimant with the written consent of this Company; in the event the Insured shall fail or refuse to settle any claim, as authorized by this Company, the liability of this Company to the Insured shall be limited to the amount for which settlement could have been made.
  11. Whenever required by this Company, the Insured shall aid in securing information, evidence, obtaining of witnesses, and cooperate with this Company in all matters which this Company may deem necessary in the defense of any claim or suit or appeal from any judgment in respect of any occurrence as hereinbefore provided.
  12. In the event of any accident, loss, damage or injury for which claim may be made under this policy, the Insured agrees to subrogate to this Company all rights which the Insured may have against any other person or entity with respect to said accident, loss, or occurrence. In case of any agreement or act, past or future, by the Insured, whereby any right of recovery of the Insured, against any person or entity, is released or lost, which would, on payment of loss by this Company, belong to this Company but for such agreement or act, this insurance shall be vitiated to the extent that this Company's right of subrogation has been impaired thereby; provided, however, that the right of this Company to retain or recover any premium paid or due hereunder shall not be affected. The cost and expense of prosecuting any claim, suit, action or arbitration in which this Company as Insurer shall have an interest by subrogation or otherwise, shall be divided between the Insured and this Company proportionately to the amount which they would be entitled to receive respectively if such prosecution should be successful. It is agreed that this Company waives any right of subrogation against any subsidiary, affiliated or inter-related Company of the Insured, excepting to the extent that any such Company is insured against the liability asserted.
  13. No claim or demand against this Company under this policy shall be assigned or transferred, and no person, excepting a legally appointed Receiver of the property of the Insured, shall acquire any rights against this Company by virtue of this insurance without the expressed consent of this Company.
  14. No action shall lie against this Company for the recovery of any loss sustained by the Insured unless such action be brought against this Company within one (1) year after the final judgment or decree is entered in the litigation against the Insured, or in case the claim against this Company accrues without the entry of such final judgment or decree, unless such action be brought within one (1) year from the date of the payment of such claim; provided, however, that where such limitation of time is prohibited by the laws of the State wherein this policy is issued, then and in that event no action under this policy shall be sustainable unless commenced within the shortest limitation permitted under the laws of such State.
  15. This policy may be cancelled by either party on giving the other or its agent thirty (30) days notice in writing, earned premium to be adjusted in accordance with clause #5 based on gross charges earned by the Insured up to the effective date of cancellation.
  16. All other terms and conditions of this policy not in conflict herewith remain unchanged.

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Authorized Representative

APPENDIX B

MARINA LIABILITY - P & I ENDORSEMENT



To be attached to and forming part of Policy No. MH \_\_\_\_\_ of THE HOME INSURANCE COMPANY.

1. With respect to pleasure craft covered by this policy which are being operated by the Insured or his employees in conjunction with operations covered by this policy or which may break away from premises covered by this policy, this policy is hereby extended to cover such sums as the Insured shall have become legally liable to pay, and shall have paid on account of:
  - (a) Loss of life of, or injury to any person;
  - (b) Loss of, or damage to, or expense in connection with any fixed or movable object or property of whatsoever nature;
  - (c) Costs or expenses of, or incidental to, the removal of the wreck of the insured vessel when such removal is compulsory by law;
  - (d) Costs and expenses, incurred with this Company's approval, of investigating and/or defending any claim or suit against the Insured arising out of a liability or an alleged liability of the Insured covered above.
  
2. Notwithstanding the foregoing, this Company will not pay for:
  - (a) Any loss of, damage to or expense in connection with any property owned by, leased to or rented to the Insured;
  - (b) Any claim arising with respect to any employee of the Insured;
  - (c) Any liability assumed by the Insured beyond that imposed by law in the absence of contract.
  
3. This Company shall not be liable under this endorsement for more than its proportion of \$ \_\_\_\_\_ of the aggregate of claims, costs or expenses arising out of any one accident or occurrence.
  
4. The deductible provision of Clause #3 of the Marina Operators Liability Clauses attached to this policy shall not apply to coverage granted by this endorsement.
  
5. In consideration of this extension, the Insured agrees to pay additional premium at the rate \_\_\_\_\_ % of the gross charges (MINIMUM ANNUAL ADDITIONAL PREMIUM \$50.00), as reported under the provisions of Clause #4 of the Marina Operators Liability Clauses attached to this policy.
  
6. All other terms and conditions of this policy not in conflict herewith remain unchanged.

Countersigned at \_\_\_\_\_ MO. DAY YEAR AUTHORIZED REPRESENTATIVE

RULES AND REGULATIONS COVERING  
DISPOSAL OF WASTES FROM WATERCRAFT

## 1.0 PURPOSE

To prescribe methods and procedures for the construction and operation of marine toilet devices for use on watercraft. Such rules and regulations are considered necessary to assure that the water resources of this State can be developed to provide maximum benefits, i.e., water supply, recreation and other beneficial uses influenced by quality conditions.

## 2.0 AUTHORITY FOR RULES AND REGULATIONS

- 2.1 The State Department of Health was established by Article 4414a, Title 71, 1925, Revised Civil Statutes of Texas, to better protect and promote the health of the people of Texas.
- 2.2 Article 4419, Title 71, 1925, Revised Civil Statutes of Texas, states that "The State Board of Health shall have general supervision and control of all matters pertaining to the health of citizens of this State." By virtue of Article 4418d, Title 71, 1925, Revised Civil Statutes of Texas, the Commissioner of Health has the power, with the approval of the State Board of Health, "to prescribe and promulgate such administrative rules and regulations not inconsistent with any law of the State as may be deemed necessary for the effective performance of the duties imposed upon the State Department of Health and its several Officers and Divisions."
- 2.3 Article 4477-1, Vernon's Texas Civil Statutes, Section 20. (b), "The Texas State Department of Health shall take all necessary procedures essential to the protection of any spring, well, pond, lake, reservoir, or other streams in Texas, from any condition or pollution resulting from sewage that may endanger the public health, and shall have full authority to enforce all the laws of this State relating thereto."
- 2.4 These Rules and Regulations shall constitute the policy of the State Board of Health and shall be enforced by the appropriate Local Health Officer as set forth in Articles 4427 and 4430, Vernon's Statutes of Texas.

## 3.0 DEFINITIONS

- 3.1 These rules and regulations for marine toilets have been adopted by the Texas State Board of Health. The following definitions shall apply in the interpretation and enforcement of these regulations.
- 3.2 Boat means any vessel or other watercraft, whether moved by

oars, paddles, sails, or other power mechanism, inboard or outboard, or any other vessel or structure floating upon the waters of this State, whether or not capable of self-locomotion, including but not limited to cabin cruisers, houseboats, barges, marinas and similar floating objects.

- 3.3 Marine Toilet means any toilet on or within any boat.
- 3.4 Other Disposal Unit means any device on or within any boat, other than a marine toilet, which is intended for use in the disposal of human body wastes.
- 3.5 Sewage means all human body waste.
- 3.6 Holding Tank--A tank to be used for receiving and retaining sewage.
- 3.7 Waters of the State means all streams, lakes, reservoirs, water courses and all other bodies or accumulations of water, natural or artificial, which are contained within or flow along the border of or through the territorial jurisdiction of the State.
- 3.8 Septic Action--Sewage undergoing putrefaction under anaerobic conditions.

#### 4.0 SEWAGE DISPOSAL DEVICES AND EQUIPMENT

- 4.1 Any marine toilet located on or within any boat operated on waters of this State shall have securely affixed to the discharge outlet a holding tank located on the boat, provided so as to meet the following specifications:
  - 4.1.1 The holding tank shall be so constructed as to prevent the removal of the sewage held therein except by pumping therefrom by onshore facilities.
  - 4.1.2 The holding tank shall be constructed of material which will withstand the corrosion effects of the sewage and the disinfecting chemicals used. It shall be so located as to minimize the possibility of rupture.
  - 4.1.3 The holding tank shall be properly vented to the outside of the boat in such a manner as not to defile the interior of the boat structure.
  - 4.1.4 The contents of holding tanks shall be discharged only to onshore facilities constructed, operated, and maintained so as to prevent possible entrance of waste materials into the waters of the State.
- 4.2 Contents of other disposal units shall be disposed onshore in such a manner as not to create a public health nuisance and to prevent possible entrance into the waters of the State.



5.0 MINIMUM STANDARDS

- 5.1 Compliance with these rules and regulations will be considered as meeting minimum standards.
- 5.2 Other devices for the control of wastes from watercraft may be considered as acceptable provided that the local health authority assures the State Department of Health in writing that such devices are being inspected and maintained in such a manner as not to constitute a hazard to health.
- 5.3 These rules and regulations are not designed to supersede more restrictive rules and regulations or ordinances adopted by local political subdivisions of the State for the regulation of marine toilets and waste from watercraft in their area of jurisdiction.

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Adopted by the Texas State Board of Health June 13, 1966.

MARCH 1971

TITLE 36 - PARKS AND FORESTS  
 CHAPTER III - CORPS OF ENGINEERS, DEPARTMENT OF THE ARMY  
 PART 311 - RULES AND REGULATIONS GOVERNING PUBLIC USE  
 OF CERTAIN LAKE AND RESERVOIR AREAS

## Section

- 311.0 Determination of the Secretary
- 311.1 Areas Covered
- 311.2 Boats, Commercial
- 311.3 Boats and Other Vessels, Private
- 311.4 Mooring, Care and Sanitation of Boats and Floating Facilities
- 311.5 Swimming and Bathing
- 311.6 Hunting and Fishing
- 311.7 Camping
- 311.8 Picnicking
- 311.9 Access to Water Areas
- 311.10 Destruction of Public Property
- 311.11 Firearms, Explosives, Fireworks and Weapons of All Kinds
- 311.12 Gasoline and Oil Storage
- 311.13 Sanitation
- 311.14 Advertisements
- 311.15 Unauthorized Solicitations and Business Activities
- 311.16 Commercial Operations
- 311.17 Recreational Activity Programs
- 311.18 Abandonment of Personal Property
- 311.19 Discriminatory Practices
- 311.20 Control of Horses, Dogs, Cats and Pets
- 311.21 Visiting Hours
- 311.22 Noise Levels
- 311.23 Vehicles

AUTHORITY: The provisions of this Part 311 issued under sec. 4, 58 stat., as amended; 16 U.S.C. 460d.

## 311.0 Determination of the Secretary

The Secretary of the Army having determined that the use of certain lake and reservoir areas by the general public for boating, swimming, bathing, fishing, and other recreational purposes will not be contrary to the public interest and will not be inconsistent with the operation and maintenance of the lake or reservoir for their primary purposes, hereby prescribes the following rules and regulations pursuant to the provisions of section 4 of the Act of Congress approved December 22, 1944, as amended (16 U.S.C. 460d), for the public use of certain lake and reservoir areas (27 F.R. 12674, Dec. 21, 1962).

Such public use is also subject to applicable state, local and other federal laws and regulations.

## 311.1 Areas Covered

(a) The regulations contained in this part shall be applicable to:

Texas

Bardwell Lake Area, Waxahachie Creek  
 Belton Lake Area, Leon River  
 Benbrook Lake Area, Clear Fork of the Trinity River  
 Canyon Lake Area, Guadalupe River  
 Garza-Little Elm Lake (Lewisville Dam) Area, Elm Fork, Trinity River  
 Grapevine Lake Area, Denton Creek  
 Hords Creek Lake Area, Hords Creek  
 Lavon Lake Area, East Fork Trinity River  
 Navarro Mills Lake Area, Richland Creek  
 Proctor Lake Area, Leon River  
 San Angelo Lake Area, North Concho River  
 Somerville Lake Area, Yegua Creek  
 Stillhouse Hollow Lake Area, Lampasas River  
 Town Bluff Dam & B. A. Steinhagen Lake Area, Neches River  
 Waco Lake Area, Bosque River  
 Whitney Lake Area, Brazos River

(b) In those portions of the lake or reservoir area which are now or which hereafter are managed by other governmental agencies (including state, county and municipal) pursuant to leases or licenses granted by the Department of the Army, such agencies may make and enforce such rules and regulations as are necessary, and within their legal authority.  
NOTE: For amendments to this section, see the List of Sections Affected.

## 311.2 Boats, Commercial

No boat, barge or other vessel shall be placed upon or operated upon any water of the lake or reservoir for a fee or profit, either as a direct charge to a second party, or as an incident to other services provided to a second party, except as specifically authorized by lease, license, or concession contract with the Department of the Army, or except for commercial navigation on a lake or reservoir which is navigable by law.

All such watercraft authorized for commercial service, including rental units, shall have the maximum passenger carrying capacity (number of persons authorized by state and local law and/or in the absence thereof by ratings figured on Outboard Boating Club manufacturers rating) plainly posted in a conspicuous place inside the watercraft.

### 311.3 Boats and Other Vessels, Private

(a) The operation of boats, houseboats, cabin cruisers and other vessels on the lake or reservoir for fishing and recreational use is permitted except in prohibited areas as contained in regulations in this part and as designated by the District Engineer in charge of the project.

(b) Except for the lakes and reservoirs listed in this paragraph, a permit is required from the District Engineer or his authorized representative for placing and operating a vessel on the lake or reservoir for a period longer than three days, unless the boat or other vessel is registered and displays a valid state or U. S. Coast Guard number. No charge will be made for this permit. The permit shall be kept aboard the vessel at all times that the vessel is in operation on the lake or reservoir. The District Engineer in charge of the area or his authorized representative shall have authority to revoke the permit and to require removal of the vessel upon failure of the permittee to comply with the terms and conditions of the permit or with the regulations of this part.

#### Idaho

Albeni Falls Dam Area, Pond Oreille River

#### Washington

Chief Joseph Dam Area, Columbia River

(c) Unsafe boats or other vessels will not be permitted on the lake or reservoir. The District Engineer may require the applicant for a permit to furnish the construction plans and other information pertaining to the construction and equipment of the boat or other vessel prior to issuing a permit for its operation on the lake or reservoir. All boats permitted on the lake or reservoir shall be equipped for safe operation and operated in a safe manner in accordance with instructions issued by the District Engineer. These instructions may provide that the operation of speed boats and water skiing activities shall be confined to areas of water designated by the District Engineer for such activities.

(d) Houseboats, cabin cruisers and other vessels may be placed and operated on the lakes and reservoirs, except that such a facility shall not be utilized for human habitation at a fixed or permanent mooring point and if equipped with toilets and galley shall not be placed on lakes and reservoirs with small permanent pools, or where prohibited by state and/or local laws and regulations. Such vessels may be barred from other lakes and reservoirs by the District Engineer with the concurrence of the Chief of Engineers in those lakes and reservoirs in which the waters thereof are used for domestic water supply when the

District Engineer determines that such use is contrary to the public health and safety (24 F.R. 8496, Oct. 21, 1959, as amended at 32 F.R. 13280, Sept. 20, 1967).

#### 311.4 Mooring, Care and Sanitation of Boats and Floating Facilities

(a) All boats or other vessels when not in actual use must be either removed from the lake or reservoir, securely moored at authorized docks or boat houses where supervision by the owner or his representative is provided on a 24-hour day basis or placed in the care of a marina concessionaire, state or local managing agency or other party authorized to care for floating equipment on a 24-hour day basis.

(b) All boats, barges and other vessels or floating facilities will be moored only in locations designated by the District Engineer or his designated representative. All floating or stationary mooring facilities will be constructed in accordance with approved plans and specifications and will require a permit, lease or license approved by the District Engineer or his designated representative. He shall have authority to revoke such permits, leases or licenses and require removal of the facility for failure of the permittee, lessee or licensee to comply with the terms and conditions of the permit, lease or license or with the regulations in this part.

(c) The discharge of sewage, garbage or other pollutants in the waters of the lake or reservoir from any boat, barge or other vessel on the lake or reservoir is prohibited except in accordance with regulations of the Environmental Protection Agency, state and local health agencies permitting such discharge when underway in deep waters other than embayments. All such pollutants shall be deposited ashore at places designated for such deposit and disposal.

#### 311.5 Swimming and Bathing

Swimming and bathing are permitted except in prohibited areas designated by the District Engineer or state and local health authorities.

#### 311.6 Hunting and Fishing

(a) Hunting, fishing and trapping are permitted in accordance with all applicable federal, state and local laws for the protection of fish and game except in prohibited areas including the following:

(1) Public access, park and recreation areas in which all hunting is prohibited;

(2) Prohibited areas designated by the District Engineer in which hunting or fishing or both are prohibited;

(3) Prohibited areas designated by federal or state managing agencies under applicable laws administered by such agencies.

(b) Hunting is restricted to the use of hunting devices authorized under federal, state and local laws and regulations.

(c) A permit shall be obtained from the District Engineer or his authorized representative to construct a duck blind on the land and/or water in any lake or reservoir area listed in 311.1.

### 311.7 Camping

(a) Camping is permitted only at areas designated by the District Engineer in charge of the lake or reservoir area or his authorized representative or the managing agency referred to in 311.1(b).

(b) The length of stay is limited to 14 consecutive days except where the District Engineer or his authorized representative or the managing agency referred to in 311.1(b) determines a lesser stay is warranted. However, where ample facilities exist to serve the public at the time, the length of stay may be extended to no more than 30 consecutive days by special permission of the District Engineer or his authorized representative or the managing agency referred to in 311.1(b). No trailer, tent or other camping unit is permitted to remain more than 30 consecutive days.

(c) Camping fees, where applicable, will be as posted.

(d) Camping equipment shall not be abandoned or left unattended for 24 hours or more, and such equipment may not be placed on a camp site prior to actual occupancy.

(e) The installation by campers of any permanent facility at any campground is prohibited.

(f) Campers shall keep their campgrounds clean and dispose of combustibles and refuse in accordance with instructions posted at each campground by the District Engineer or his authorized representative or the managing agency referred to in 311.1(b).

(g) Due diligence shall be exercised in building and putting out campfires to prevent damages to trees and vegetation and to prevent forest fires and grass fires.

(h) Camping equipment shall be completely removed and the sites cleaned before the departure of the camper.

(i) Quiet shall be maintained in all camping areas between the hours of 10:00 P.M. and 6:00 A.M.

### 311.8 Picnicking

(a) Picnicking is permitted except in prohibited areas designated by the District Engineer or his authorized representative, or the managing agency referred to in 311.1(b).

(b) Picnickers shall keep their picnic area clean and dispose of garbage and refuse in accordance with instructions posted by the District Engineer or his authorized representative or the managing agency referred to in 311.1(b).

(c) Due diligence shall be exercised in building and putting out fires to prevent damages to trees and vegetation and to prevent forest and grass fires.

### 311.9 Access to Water Areas

(a) Pedestrian access is permitted along the shores of the lake or reservoir except in areas designated by the District Engineer or his authorized representative.

(b) Vehicular access is permitted only over open public lake and reservoir roads. The operator of any vehicle shall obey all posted vehicular traffic control signs and devices.

(c) Access for the general public to launch boats is permitted only at the public launching sites designated by the District Engineer.

### 311.10 Destruction of Public Property

The destruction, injury, defacement or removal of public property or of vegetation, rock or minerals, except as authorized, is prohibited.

### 311.11 Firearms, Explosives, Fireworks and Weapons of All Kinds

Loaded firearms, any projectile firing devices, bows and arrows, crossbows and explosives of any kind are prohibited in the area, except when in the possession of a law enforcement officer or Government employee on official duty, when any hunting devices are being used for hunting during the hunting season as permitted under subpart 311.6 or when specifically authorized by the District Engineer. The use of fireworks is prohibited in the area, except when authorized by the District Engineer or his authorized representative for special purposes.

### 311.12 Gasoline and Oil Storage

Gasoline and other flammable or combustible liquids shall not be stored in, upon or about the lake or reservoir or shores thereof without the written permission of the District Engineer or his authorized representative.

### 311.13 Sanitation

Dumping and unauthorized disposal in any manner of refuse, garbage, rubbish, trash or litter of any kind at such waters resources development projects, either into the waters of such projects or onto any land federally owned and administered by the Chief of Engineers is prohibited, except at designated points or places designed for the sanitary disposal thereof.

### 311.14 Advertisements

Private notices and advertisements shall not be posted, distributed or displayed in the lake or reservoir area except such as the District Engineer or his authorized representative may deem necessary for the convenience and guidance of the public using the area for recreational purposes.

### 311.15 Unauthorized Solicitations and Business Activities

No person, firm or corporation or their representative shall engage in or solicit any business on the lake or reservoir area without permission in writing from the District Engineer or in accordance with terms of a lease, license or concession contract with the Department of the Army.

### 311.16 Commercial Operations

All commercial operations or activities on the waters or on the lands under the control of the Department of the Army around the lake or reservoir shall be in accordance with lease, license or other agreements with the Department of the Army.

### 311.17 Recreational Activity Programs

(a) Special events such as water carnivals, boat regattas, music festivals, dramatic presentations or other special recreational programs of interest to the general public are permitted in areas designated by the District Engineer or his authorized representative.

(b) A permit shall be obtained from the District Engineer or his authorized representative by the governmental or legally responsible



private agency proposing to hold a special event as indicated in this section. No charge will be made for this permit.

(c) The District Engineer in charge of the area shall have authority to revoke any permit granted under this section and to require the removal of any equipment upon failure of the permittee to comply with the terms and conditions of the permit or with the regulations in this part.

#### 311.18 Abandonment of Personal Property

Abandonment of personal property on the land or waters of the lake or reservoir area is prohibited. Personal property shall not be left unattended upon the lands and waters of the lake or reservoir area except in accordance with the regulations prescribed in this part or under permits issued therefor. The Government assumes no responsibility for personal property and if such property is abandoned or left unattended in other than places designated in a permit issued therefor or under a regulation for a period in excess of 24 hours, it will be impounded, and if not reclaimed by the owners, it will be treated as abandoned private personal property. The District Engineer may assess a reasonable impoundment fee, which shall be paid before the impounded property may be returned to its owners.

#### 311.19 Discriminatory Practices Prohibited

All project land and water areas which are open to the public shall be available for use and enjoyment by the public without regard to race, creed, color or national origin. No lessee or licensee of a project area under lease or license providing for a public or quasi-public use, including group camp activities, and no concessionaire of a lessee or licensee providing a service to the public, including facilities and accommodations, shall discriminate against a person or persons because of race, creed, color or national origin in the conduct of its operations under the lease, license or concession agreement (29 F.R. 9710, July 18, 1904).

#### 311.20 Control of Horses, Dogs, Cats and Pets

(a) Horseback riding is prohibited in developed camping, picnicking and swimming beach areas and areas as may be designated by the District Engineer or his authorized representative or the managing agency referred to in 311.1(b).

(b) Dogs, cats and pets are prohibited unless they are caged, penned, on a leash no longer than six feet or otherwise under physical restrictive control at all times.

(c) Horses, dogs, cats and pets are prohibited in designated beach areas.

#### 311.21 Visiting Hours

The District Engineer or his authorized representative or the managing agency referred to in 311.1(b) may establish a reasonable schedule of visiting hours for all or portions of the area and close or restrict the public use of all or any portion of the area, when necessary for the protection of the area or the safety and welfare of persons or property by posting of appropriate signs indicating the extent and scope of closure. All persons shall observe and abide by the officially posted signs designating closed areas and visiting hours.

#### 311.22 Noise Levels

The operation or use of any audio or noise producing device including communication media and motorized equipment or vehicles in such a manner as to unreasonably annoy or endanger persons in any public place on the project is prohibited.

#### 311.23 Vehicles

The following are prohibited at developed recreation sites:

- (a) Driving motor vehicles in excess of posted speeds.
- (b) Driving or parking any vehicle or trailer except in places developed for this purpose.
- (c) Driving any vehicle carelessly and heedlessly disregarding the rights or safety of others or without due caution and at a speed, or in a manner, so as to endanger, or be likely to endanger, any person or property.
- (d) Driving bicycles, motorbikes, motorcycles, snowmobiles or other recreational vehicles within developed recreation sites, except where otherwise designated by appropriate signs.
- (e) Driving motorbikes, motorcycles, snowmobiles or other motor vehicles on roads in developed recreation sites for any purpose other than access into, or egress out of, the site.
- (f) Operating a motor vehicle at any time without a muffler in good working order, or operating a motor vehicle in such a manner as to create excessive or unusual noise or annoying smoke, or using a muffler cutoff, bypass or similar device.

(g) Excessively accelerating the engine of a motor vehicle or motorcycle when such vehicle is not moving or is approaching or leaving a stopping place.

APPROVED



R. S. KRISTOFERSON  
Colonel, CE  
District Engineer

## APPENDIX E

Title 19 MISCELLANEOUS OFFENSES Art. 1722a

## CHAPTER FIFTEEN A—WATER SAFETY ACT [NEW]

Art.  
1722a. Texas Water Safety Act.

## Art. 1722a. Texas Water Safety Act

## Declaration of policy

Section 1. This Act shall be referred to as the "Water Safety Act." It is the policy of this state to promote safety for persons and property in and connected with the use, operation, and equipment of vessels and to promote uniformity of laws relating thereto.

Sec. 1 amended by Acts 1967, 60th Leg., p. 1564, ch. 628, § 1, eff. Aug. 28, 1967.

## Definitions

Section 2. As used in this Act, unless the context clearly requires a different meaning:

(1) "Vessel" means every description of watercraft, other than a sea-plane on water, used or capable of being used as transportation on water.

(2) "Motorboat" means any vessel propelled by machinery, whether or not such machinery is the principal source of propulsion.

(3) "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.

(4) "Waters of this state" means any public waters within the territorial limits of this state; provided, however, privately-owned waters shall be excluded from the provisions of this Act.

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**Art. 1722a** MISCELLANEOUS OFFENSES Title 19

(5) "Person" means an individual, partnership, firm, corporation, association, or other entity.

(6) "Operate" means to navigate or otherwise use a motorboat or a vessel.

(7) "Department" means the Texas Parks and Wildlife Department.

(8) "Dealer" means a person, firm, or corporation engaged in the business of selling motorboats.

(9) "Boat Livery" means a business establishment engaged in renting or hiring out motorboats for profit.

(10) "Undocumented motorboat" means any vessel which is not required to have, and does not have, a valid marine document issued by the Bureau of Customs of the United States government, or federal agency successor thereto.

(11) The certificate of number or facsimile thereof required by this Act shall be carried on board the vessel at all times.

Sec. 2 amended by Acts 1967, 60th Leg., p. 1564, ch. 628, § 1, eff. Aug. 28, 1967, Sec. 2(7) amended by Acts 1969, 61st Leg., p. 517, ch. 180, § 1, eff. Sept. 1, 1969.

**Administration and enforcement of act; transfer**

Sec. 2a. All powers, duties, and authority originally vested in the Texas Highway Department in connection with administration and enforcement of this Act are transferred to the Texas Parks and Wildlife Department.

Added by Acts 1969, 61st Leg., p. 517, ch. 180, § 2, eff. Sept. 1, 1969.

**Operation of unnumbered motorboats**

Sec. 3. Every undocumented motorboat on the waters of this state shall be numbered, except as provided by exemptions in this Act. No person shall operate or give permission for the operation of any motorboat on such waters unless the motorboat is numbered as required by this Act which numbering system shall be in accord with the Federal Boating Act of 1958 and subsequent amendments thereto, and unless (1) the certificate of number awarded to such motorboat is in full force and effect, and (2) the identifying number set forth in the certificate is properly displayed on each side of the bow of such motorboat.

Sec. 3 amended by Acts 1967, 60th Leg., p. 1564, ch. 628, § 1, eff. Aug. 28, 1967.

**Identification number**

Sec. 4. (a) The owner of each motorboat requiring numbering by this State shall file an application for number with the Department on forms approved by it. The application shall be signed by the owner of the motorboat and shall be accompanied by a fee for which is hereinafter provided. Upon receipt of the application in approved form, the Department shall enter the same upon the records of its office and issue to the applicant a certificate of number stating the number awarded to the motorboat and the name and address of the owner. The owner shall paint on or attach to each side of the motorboat or vessel near the bow thereof the identification number in such manner as may be prescribed by the Department. The number shall be clearly visible and maintained in legible condition. The certificate of number shall be pocket size. The form of certificate of number, application form, and manner of renewal shall be prescribed by the Department, provided, however, that the certificate of number does not have to physically be on the person of the operator. Partial fees for newly purchased watercraft or other boats not previously operated within this State may be paid on a yearly basis.

(b) The owner of any vessel or motorboat for which a current certificate of number has been awarded pursuant to any Federal law or a federal-

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ly approved numbering system of another state shall, if such motorboat, or vessel is operated on the waters of this State in excess of ninety (90) days, make application for a certificate of number in the manner prescribed in this Act for a resident of this State.

(c) The owner shall furnish the Department notice of the transfer of all or any part of his interest other than the creation of a security interest in a motorboat numbered in this State or of the destruction or abandonment of such motorboat, within a reasonable time thereof. In all such cases, the notice shall be accompanied by a surrender of the certificate of number. When the surrender of the certificate is by reason of the motorboat being destroyed or abandoned, the Department shall cancel the certificate and enter such fact in the records. The purchaser of a motorboat shall within a reasonable time after acquiring same present evidence of ownership thereof and make application to the Department for transfer to him of the certificate of number issued to such motorboat, giving his name, address, and number of the motorboat and shall at the same time pay to the Department a fee of One Dollar (\$1). Upon receipt of the application and fee the Department shall transfer the certificate of number issued for such motorboat to the new owner. Unless such application is made and fee paid within a reasonable time, such motorboat shall be deemed to be without certificate of number, and it shall be unlawful for any person to operate such motorboat until the certificate is issued.

(d) The Department may award any certificate of number directly or may authorize any person to act as agent for awarding of certificates. In the event that a person accepts authorization he shall execute a faithful performance bond of not less than One Thousand Dollars (\$1,000) in favor of the State of Texas, and may be assigned a block or blocks of numbers and certificates which upon award, in conformity with this Act and with any rules and regulations of the Department, shall be valid as if awarded directly by the Department. Such agent shall be entitled to a fee for his services not to exceed ten per cent (10%) of the fee for each original certificate.

(e) All ownership records of the Department made or kept pursuant to this Act shall be public records. Copies of all rules and regulations pursuant to this Act shall be furnished without cost with each certificate of number issued.

(f) Every certificate of number awarded pursuant to this Act shall continue in full force and effect for a period of two (2) years unless sooner terminated or discontinued in accordance with the provisions of this Act. Certificates of number shall be valid for the biennium from April 1 of one year to March 31 of the first succeeding year, both days inclusive.

(g) Any holder of a certificate of number shall notify the Department within a reasonable time, if his address no longer conforms to the address appearing on the certificate, and shall, as a part of the notification, include his new address. The Department may provide in its regulations for the surrender of the certificate bearing the former address and its replacement with a certificate bearing the new address or for the alteration of the outstanding certificate to show the new address of the holder. Changes of address shall be noted on the records of the Department.

(h) In the event that any certificate of number becomes lost, mutilated or illegible, the owner of the motorboat for which the certificate was issued may obtain a duplicate upon application to the Department and the payment of a fee of One Dollar (\$1).

(i) It shall be unlawful for any person to paint, attach, or otherwise display on either side of the bow of any motorboat any number other than the number awarded to said motorboat or granted reciprocally pursuant to this Act.

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(j) It shall be unlawful for any person to deface or alter the certificate of number or number assigned and appearing on the bow of any boat.

(k) An application for renewal of a certificate of number shall be made by the owner on an application therefor which must be received by the Department within a period consisting of the last ninety (90) days before the expiration date on the certificate of number and the same number will be issued upon renewal. Any application not so received shall be treated in the same manner as an original application.

**Manufacturer's or builder's serial number**

Sec. 5. (a) All new boats manufactured for sale in Texas after the effective date of this Act must carry a manufacturer's serial number clearly imprinted on the structure of the boat or displayed on a plate attached to the boat in a permanent manner.

(b) The owner of any vessel not required to carry a manufacturer's serial number may file an application for a serial number with the Department on forms approved by it. The application shall be signed by the owner of the vessel and shall be accompanied by a fee of One Dollar (\$1). Upon receipt of the application in approved form, the Department shall enter the same upon the records of its office and issue to the applicant a serial number.

(c) No person shall wilfully destroy, remove, alter, cover, or deface the manufacturer's serial number, or plate bearing such serial number, or the serial number issued by the Department, on any boat. The possession of a boat with a serial number which has been altered, defaced, mutilated or removed, is forbidden, and any person who obtains or comes into possession of such a boat is required to file with the Department a sworn statement describing the boat, proving legal ownership and, if known, the reason for the destruction, removal or defacement of the serial number.

**Dealer's and manufacturer's number**

Sec. 6. (a) Any dealer or manufacturer of motorboats in this State may, instead of securing a certificate of number for each motorboat he may wish to show or demonstrate or test on waters of this State, procure a dealer's and manufacturer's number which shall be attached to any motorboat which he sends temporarily on the waters. The two-year fee for a dealer's and manufacturer's number shall be Twenty-Five Dollars (\$25). Every dealer or manufacturer applying for such a number shall apply on forms provided by the Department. The application shall state that the applicant is a dealer or manufacturer within the meaning of this Act, and the facts stated on the application shall be sworn before an officer authorized to administer oaths. No such number shall be issued until the provisions of this Article have been satisfied.

(b) Each dealer or manufacturer holding a dealer's or manufacturer's number may issue a reasonable temporary facsimile of such number which may be used by any authorized person. A person purchasing a motorboat may use the dealer's number for a period not to exceed ten (10) days, prior to filing application for number. The form of the facsimile of the dealer's and manufacturer's number and the manner of display shall be prescribed by the Department.

**Classification and required equipment**

Sec. 7. (a) Motorboats subject to the provisions of this Act shall be divided into four (4) classes as follows:

Class A. Less than sixteen (16) feet in length.

Class 1. Sixteen (16) feet or over and less than twenty-six (26) feet in length.

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Class 2. Twenty-six (26) feet or over and less than forty (40) feet in length.

Class 3. Forty (40) feet or over.

(b) Every vessel or motorboat when not at dock in all weathers from sunset to sunrise shall carry and exhibit at least one (1) bright light, lantern, or flare up and the following lights when under way, and during such time no other lights which may be mistaken for those prescribed shall be exhibited:

(1) Every motorboat of classes A and 1 shall carry the following lights:

First. A bright white light aft to show all around the horizon.

Second. A combined lantern in the fore part of the vessel and lower than the white light aft, showing green to starboard and red to port, so fixed as to throw the light from right ahead to two (2) points abaft the beam on their respective sides.

(2) Every motorboat of classes 2 and 3 shall carry the following lights:

First. A bright white light in the fore part of the vessel as near the stem as practicable, so constructed as to show an unbroken light over an arc of the horizon of twenty (20) points of the compass, so fixed as to throw the light ten (10) points on each side of the vessel; namely from right ahead to two (2) points abaft the beam on either side.

Second. A bright white light aft to show all around the horizon and higher than the white light forward.

Third. On the starboard side a green light so constructed as to show an unbroken light over an arc of the horizon of ten (10) points of the compass, so fixed as to throw the light from right ahead to two (2) points abaft the beam on the starboard side. On the port side a red light so constructed as to show an unbroken light over an arc of the horizon of ten (10) points of the compass, so fixed as to throw the light from right ahead to two (2) points abaft the beam on the port side. The said side lights shall be fitted with inboard screens of sufficient length so set as to prevent these lights from being seen across the bow.

(3) Motorboats of Classes A and 1 when propelled by sail alone shall carry the combined lantern, but not the white light aft, prescribed by this Section. Motorboats of classes 2 and 3 when so propelled, shall carry the colored side lights, suitably screened, but not the white lights. Motorboats of all classes, when so propelled, shall carry, ready at hand, a lantern or flashlight showing a white light which shall be exhibited in sufficient time to avert collision.

(4) Every white light prescribed by this Section shall be of such character as to be visible at a distance of at least two (2) miles. Every colored light prescribed by this Section shall be of such character as to be visible at a distance of at least one (1) mile. The word "visible" in this subsection, when applied to lights, shall mean visible on dark nights with clear atmosphere.

(5) When propelled by sail and machinery any motorboat shall carry the lights required by this Section for a motorboat propelled by machinery only.

(c) Any motorboat may carry and exhibit the lights required by the Regulations for Preventing Collisions at Sea, 1948, Act of October 11, 1951 (65 Stat. 406-420), as amended, in lieu of the lights required by Subsection (b) of this Section.

(d) Every motorboat of class 1, 2, or 3 shall be provided with an efficient whistle or other sound-producing mechanical appliance.



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(e) Every motorboat of class 2 or 3 shall be provided with an efficient bell.

(f) Every motorboat shall carry at least one (1) life preserver, or life belt, or ring buoy, or other device of the sort prescribed by the regulations of the Commandant of the Coast Guard for each person on board, so placed as to be readily accessible. Provided, that every motorboat carrying passengers for hire shall carry so placed as to be readily accessible at least one (1) life preserver of the sort prescribed by the regulations of the Commandant of the Coast Guard for each person on board.

(g) Every motorboat shall be provided with such number, size, and type of fire extinguishers, capable of promptly and effectually extinguishing burning gasoline, as may be prescribed by the regulations of the Commandant of the Coast Guard, which fire extinguishers shall be at all times kept in condition for immediate and effective use and shall be so placed as to be readily accessible.

(h) The provisions of Subsections (d), (e) and (g) of this Section shall not apply to motorboats while competing in any race conducted pursuant to this Act or, if such boats be designed and intended solely for racing, while engaged in such navigation as is incidental to the tuning up of the boats and engines for the race.

(i) Every motorboat shall have the carburetor or carburetors of every engine therein (except outboard motors) using gasoline as fuel, equipped with such efficient flame arrestor, backfire trap, or other similar device as may be prescribed by the regulations of the Commandant of the Coast Guard.

(j) Every such motorboat and every such vessel, except open boats, using as fuel any liquid of a volatile nature, shall be provided with such means as may be prescribed by the regulations of the Commandant of the Coast Guard for properly and efficiently ventilating the bilges of the engine and fuel tank compartments so as to remove any explosive or inflammable gases.

(k) No person shall operate or give permission for the operation of a vessel which is not equipped as required by this Section or modification thereof.

(l) It is hereby declared to be a policy of the State of Texas that all equipment rules and regulations enacted pursuant to the authority granted in this Act shall be uniform and not inconsistent with the equipment provisions of this Act.

**Exemption from numbering provisions of this act**

Sec. 8. A motorboat shall not be required to be numbered under this Act if it is:

(1) Already covered by a number in full force and effect which has been awarded to it pursuant to Federal law or federally approved numbering system of another state; provided, that such motorboat shall not have been within this State for a period in excess of ninety (90) consecutive days.

(2) A motorboat from a country other than the United States temporarily using the waters of this State.

(3) A motorboat whose owner is the United States, a state or subdivision thereof.

(4) A ship's lifeboat.

(5) A motorboat belonging to a class of motorboats which has been exempted from numbering by the Department after said agency has found that the numbering of motorboats of such class will not materially aid in their identification; or if an agency of the Federal Government has a

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number system applicable to the class of motorboats to which the motorboat in question belongs, after the Department has further found that the motorboat would also be exempt from the numbering if it were subject to the Federal law.

All motorboats fourteen (14) feet in length or under and propelled by motors ten (10) horsepower or less, shall be exempt from the numbering provisions, and from the safety equipment provisions except insofar as they shall be required to have one (1) Coast Guard approved life preserver for each person aboard, and a white light to exhibit between the hours of sunset and sunrise.

**Boat liveryes**

Sec. 9. (a) The owner of a boat livery shall keep a record of: the name and address of the persons hiring any vessel which is designed or permitted by him to be operated as a motorboat; the certificate of number thereof; the time and date of departure and the expected time of return. The record shall be kept six (6) months.

(b) Boat liveryes shall make application directly to the Department on forms provided by the Department. The application shall state the applicant livery is within the meaning of this Act, and the facts stated in the application shall be sworn before an officer authorized to administer oaths.

**Prohibited operation**

Sec. 10. It shall be unlawful for any person to operate any motorboat or vessel or manipulate any water skis, aquaplane, or similar device in a wilfully or wantonly reckless or negligent manner so as to endanger the life, limb, or property of any person.

**Application of act**

Sec. 11. The provisions of this Act shall apply to all the public waters of this State and to all watercraft navigated or moving thereon.

**Operating boat at excessive speed prohibited**

Sec. 12. No person shall operate any boat at a rate of speed greater than is reasonable and prudent, having due regard for the conditions and hazards, actual and potential, then existing, including weather and density of traffic, or greater than will permit him, in the exercise of reasonable care, to bring such boat to a stop within the assured clear distance ahead.

**Rules of the road**

Sec. 13. The United States Coast Guard Inland Rules are hereby adopted and shall apply to all public waters of this State insofar as they are applicable.

**Operation so as to create hazardous wake or wash prohibited**

Sec. 14. No person shall operate any motorboat so as to create a hazardous wake or wash.

**Operation in circular course around fisherman or swimmer prohibited**

Sec. 15. No person shall operate any motorboat in a circular course around any other boat any occupant of which is engaged in fishing or any person swimming. No swimmer or diver shall come within two hundred (200) yards of any sight-seeing or excursion boat except for maintenance purposes or unless within an enclosed area.

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**Buoy, beacon or light marker—mooring to or removing prohibited**

Sec. 16. No person shall moor or attach any boat to any buoy, beacon, light marker, stake, flag or other aid to safe operation placed upon the public waters of this State by, or by others under the authority of, the United States or the State of Texas, or shall move, remove, displace, tamper with, damage or destroy the same.

**Anchoring in traveled portion of river or channel prohibited**

Sec. 17. No person shall anchor any boat in the traveled portion of any river or channel so as to prevent, impede or interfere with the safe passage of any other boat through the same.

**Restricted areas**

Sec. 18. No person shall operate a boat within a water area which has been clearly marked by buoys or some other distinguishing device as a bathing, fishing, swimming or otherwise restricted area by the Department or by a political subdivision of the State; provided, that this Section shall not apply in case of an emergency, or to patrol or rescue craft.

**Local regulation**

Sec. 19. (a) The Governing Body of any incorporated city or town, with respect to public waters within its corporate limits and all lakes owned by it, is hereby authorized by city ordinance to designate certain areas to be bathing, fishing, swimming or otherwise restricted areas, and to make such rules and regulations relating to the operation and equipment of boats as it may deem necessary for the public safety, the provisions of which are consistent with the provisions of this Act.

(b) The Commissioners Court of any county, with respect to public waters within the territorial limits of the county but outside the corporate limits of any incorporated city or town or political subdivision as contained in (c) below, except lakes owned by an incorporated city or town, is hereby authorized by order of the Commissioners Court entered upon its records to designate certain areas to be bathing, fishing, swimming or otherwise restricted areas, and to make such rules and regulations relating to the operation and equipment of boats as it may deem necessary for the public safety, the provisions of which are consistent with the provisions of this Act.

(c) The Governing Board of any political subdivision of the State created pursuant to the provisions of Section 59, Article XVI, of the Constitution of the State of Texas for the purpose of conserving and developing the public waters of this State, is, with respect to public waters impounded within lakes and reservoirs owned or operated by such political subdivision, authorized by resolution or other appropriate order to designate certain areas to be bathing, fishing, swimming or otherwise restricted areas; and to make such rules and regulations relating to the operation and equipment of boats as it may deem necessary for the public safety, the provisions of which are consistent with the provisions of this Act. Provided that a copy of any rule or regulation enacted pursuant to this Section shall be summarily filed with the Department.

Sec. 19(c) amended by Acts 1969, 61st Leg., p. 517, ch. 180, § 3, eff. Sept. 1, 1969.

**Collisions, accidents and casualties**

Sec. 20. (a) It shall be the duty of the operator of a vessel involved in a collision, accident or casualty, so far as he can do without

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serious danger to his own vessel, crew and passengers (if any), to render to other persons affected by the collision, accident or casualty such assistance as may be practicable and as may be necessary in order to save them from or minimize any danger caused by the collision, accident or casualty and also to give his name, address and identification of his vessel in writing to any person injured and to the owner of any property damaged in the collision, accident or other casualty.

(b) In the case of collision, accident or other casualty involving a vessel, the operator thereof, if the collision, accident or other casualty results in death or injury to a person or damage to property in excess of Fifty Dollars (\$50), shall file with the Department a full description as said agency may, by regulation, require on or before thirty (30) days.

(c) These accident reports shall be confidential and shall not be admissible in court as evidence.

**Water skis and aquaplanes**

Sec. 21. (a) No person shall operate a vessel on any waters of this State for towing a person or persons on water skis, aquaplane or similar device unless the vessel is equipped with a rearview mirror of a size no less than four inches (4") in measurement from bottom to top or across from one side to the other. Such mirror shall be mounted firmly so as to give the boat operator a full and complete view beyond the rear of his boat at all times.

(b) No person shall operate a vessel on any waters of this State towing a person or persons on water skis, surfboard, or similar devices, nor shall any person engage in water-skiing, surfboarding or similar activity at any time between the hours from one (1) hour after sunset to one (1) hour before sunrise.

(c) The provisions of Subsections (a) and (b) of this Section shall not apply to motorboats or vessels used in water ski tournaments, competitions, exhibitions or trials therefor, provided that adequate lighting is provided.

(d) All motorboats having in tow or otherwise assisting in towing a person on water skis, aquaplane or similar contrivance, shall be operated in a careful and prudent manner and at a reasonable distance from persons and property so as not to endanger the life or property of any person.

**Transmittal of information**

Sec. 22. In accordance with any request duly made by an authorized official or agency of the United States any information compiled or otherwise available to the Department pursuant to Section 20(b) shall be transmitted to said official or agency of the United States.

**Penalties**

Sec. 23. (a) Every person who violates or fails to comply with any provision of this Act, shall be guilty of a misdemeanor.

(b) Every person convicted of a misdemeanor for which another penalty is not provided shall be punished by a fine of not more than Two Hundred Dollars (\$200).

(c) Every person who violates or fails to comply with any city ordinance or any order of the Commissioners Court or order of any political subdivision of this State entered pursuant to this Act, shall be guilty of a misdemeanor. Every person convicted of a misdemeanor for which another penalty is not provided shall be punished by a fine of not more than Two Hundred Dollars (\$200).

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(d) Any person who operates any vessel or manipulates any water skis, aquaplane or similar device, upon the waters of this State in a careless or imprudent manner while such person is intoxicated, or under the influence of intoxicating liquor, or while under the influence of any narcotic drugs or barbiturates or marijuana shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than Fifty Dollars (\$50) nor more than Five Hundred Dollars (\$500) or by imprisonment of not to exceed six (6) months, or both.

(e) Any person who operates any vessel or manipulates any water skis, aquaplane or similar device, upon the waters of this State in willful or wanton disregard of the rights or safety of others or without due caution or circumspection, and at a speed or in a manner so as to endanger or be likely to endanger a person or property shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than Twenty-five Dollars (\$25) nor more than Five Hundred Dollars (\$500).

**Enforcement**

Sec. 24. (a) All peace officers and game wardens of this State and its political subdivisions shall have and are hereby given authority as enforcement officers for the purposes of this Act, and they and each of them shall have the power and authority to enforce the provisions of this Act by arrest and the taking into custody any person who may commit any act or offense prohibited by this Act or any person who may violate any provision of this Act.

(b) Any such officer in order to enforce the provisions of this Act is hereby given the power and the authority to stop and to board any vessel subject to this Act which does not have proper identifying number or is being operated in a reckless manner. Officers so boarding any vessel shall first identify themselves by presenting proper credentials and it shall be unlawful for any person operating a boat on the waters of this State to refuse to obey the directions of such officer when such officer is acting pursuant to the provisions of this Act. Provided, however, that the safety of the vessel shall always be the paramount consideration of any arresting officer.

(c) Any such officer arresting a person for a violation of this Act may deliver to such alleged violator a written notice to appear (within thirty (30) days) from and after the date of such alleged violation, before the justice court having jurisdiction of the offense. Such person so arrested shall sign said written notice to appear and thereby promise to make his appearance in accordance with the requirements therein set forth, whereupon he may be released. It shall be unlawful for any person who has made such written promise to appear before the court in the county having jurisdiction to fail to appear, and such failure to appear at the time specified shall constitute a misdemeanor and warrant for his arrest may be issued.

(d) Venue for any alleged violation or offense under the terms and provisions of this Act shall be in the justice court or county court having jurisdiction where such alleged violation or offense shall have been committed. For any offense under this Act there shall be a presumption that such offense was committed in the justice precinct and county wherein the dam containing such body of water is located.

**Fines and penalties**

Sec. 25. It shall be the duty of any justice of the peace, clerk of any court, or any other officer of this State receiving any fine or penalty imposed by any court for violation of this Act within ten (10) days after receipt of such fine or penalty, to remit same to deposit of Special

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Boat Fund, giving the docket number of the case, name of the person fined, and the section of article of the law under which conviction was secured. All costs of the court shall be retained by the court having jurisdiction of the offense, to be deposited as other fees in the proper county fund.

**Fees**

Sec. 26. (a) There is hereby levied a two-year fee in Section 4 of this Act as follows:

Class of Motorboats	two-year fee	
Class A	\$ 3.00	less than 16' in length
Class—1	6.00	16' or over & less than 26'
Class—2	9.00	26' or over & less than 40'
Class—3	12.00	40' and over

Such fee shall accompany the original and/or renewal application for certificate of number as required by this Act; provided that any boat less than sixteen (16) feet in length owned by a boat livery and used for rental purposes shall be required to pay a fee of One Dollar (\$1) for the original and/or renewal application for certificate of number as required by this Act.

(b) Partial fees for newly purchased motorboats or other motorboats not previously operated within this State, which according to Section 4, must now be registered, may be paid on a prorated basis reduced each year.

(c) All fees shall be collected by the Department or through its duly authorized agents and deposited in the State Treasury to the credit of the Special Boat Fund. The Department shall use the fees deposited in the Special Boat Fund for administering the provisions of the Act and purchasing all necessary forms and supplies including the reimbursement of the Department for any such material produced by its existing facilities or work performed by other divisions of said Department, and any remaining funds shall be used to purchase, construct, or maintain boat ramps and comfort stations on or near public waters, as provided in Section 28 of this Act.

Sec. 26(c) amended by Acts 1969, 61st Leg., p. 517, ch. 180, § 4, eff. Sept. 1, 1969.

**Applicability of fees to commercial fishing or shrimping**

Sec. 27. None of the fees of this Act shall apply to commercial fishing or shrimping boats having a boat license issued by the State of Texas as to shrimp or fish commercially in the salt waters of this State.

**Boat ramps and comfort stations**

Sec. 28. The Department is authorized to construct and maintain boat ramps, access roads, and comfort stations by the use of existing or additional services or facilities of said Department. Upon the completion of such work, said Department is authorized to prepare and transmit vouchers to the Comptroller of Public Accounts payable to the Department or to any person, firm, or corporation for reimbursement for such work and the Comptroller of Public Accounts is hereby authorized and directed to issue warrants on the Special Boat Fund to reimburse the Department or any person, firm, or corporation for the work performed. The use of a rotating blue beacon is hereby authorized for Texas Parks and Wildlife and police vessels and none other.

Sec. 28 amended by Acts 1967, 60th Leg., p. 1554, ch. 628, § 1, eff. Aug. 28, 1967; Acts 1969, 61st Leg., p. 517, ch. 180, § 5, eff. Sept. 1, 1969.

**Uniformity**

Sec. 29. In the interest of uniformity it is hereby declared to be a basic policy of the State of Texas that the basic authority for the enactment of boating regulations is reserved to the State.

**Reciprocity**

Sec. 30. Out-of-state registered motorboats are hereby granted full reciprocity for up to one (1) year. Acts 1959, 56th Leg., p. 369, ch. 179, as amended Acts 1965, 59th Leg., p. 1540, ch. 676, § 1, eff. Aug. 20, 1965.

Section 6 of the amendatory act of 1969 provided: "All records compiled by the Highway Department in connection with administration of the Texas Water Safety Act and all funds appropriated to the Highway Department from the Special Boat Fund or other source to pay expenses incurred in connection with Administration and enforcement of the Texas Water Safety Act are transferred to the Parks and Wildlife Department to be used as provided in that Act."

Attempted burglary of vessel, see art. 1401a.

Boats, vessels and watercraft, entry upon without consent of owner, see art. 1497a.

Intoxication, operation of boat, see art. 1332A.

Sinking or destroying vessel, see Art. 1332.

State parks and wildlife department employees as peace officers, see art. 975f-5c.

Using boat without consent of owner, see art. 1333.

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**Library references**

Collision C-13, 109.

Shipping C-5, C, 16.

C.J.S. Collision § 9, 156.

C.J.S. Shipping § 3, 11.

**1. In general**

City ordinance authorizing collection of inspection fee for rent boats was not in conflict with this article providing for numbering and registering of boats. City of Stamford v. Ballard (Sup.1961) 344 S.W.2d 581.

Compliance or noncompliance with Water Safety Act, purpose of which is to promote safety in use, operation and equipment of boats, by any of transferors of boat was irrelevant in action by seller for conversion of boat. DeBord v. Muller (Civ. App.1962) 437 S.W.2d 285, reversed on other grounds 446 S.W.2d 269.

**2. Fees**

Inspection fees charged by city under ordinance for inspecting rent boats used on city lake was not of a "like burden" to registration fee or numbering fee required under this article prohibiting a like burden, and boat owners had no cause of action against city lake officer to enjoin enforcement of ordinance, and owners could not maintain suit against city as an additional defendant in another county. City of Stamford v. Ballard (Civ.App.1961) 345 S.W.2d 596.

**3. Parties**

City "lake officer" was a proper party defendant to an action by owners of fishing camps to enjoin enforcement of alleged invalid ordinance levying inspection fee on boats when officer was charged with duty of collecting such fees and instituting prosecutions. City of Stamford v. Ballard (1961) 162 T. 22, 345 S.W.2d 556.

APPENDIX F  
THE PRESIDENT

EXECUTIVE ORDER 11641

Use of Off-Road Vehicles on the Public Lands

An estimated 5 million off-road recreational vehicles—motorcycles, minibikes, trail bikes, snowmobiles, dune-buggies, all-terrain vehicles, and others—are in use in the United States today, and their popularity continues to increase rapidly. The widespread use of such vehicles on the public lands often for legitimate purposes but also in frequent conflict with wise land and resource management practices, environmental values, and other types of recreational activity—has demonstrated the need for a unified Federal policy toward the use of such vehicles on the public lands.

NOW, THEREFORE, by virtue of the authority vested in me as President of the United States by the Constitution of the United States and in furtherance of the purpose and policy of the National Environmental Policy Act of 1969 (42 U.S.C. 4321), it is hereby ordered as follows:

**SECTION 1. Purpose.** It is the purpose of this order to establish policies and provide for procedures that will ensure that the use of off-road vehicles on public lands will be controlled and directed so as to protect the resources of those lands, to promote the safety of all users of those lands, and to minimize conflicts among the various uses of those lands.

**SEC. 2. Definitions.** As used in this order, the term:

(1) "public lands" means (A) all lands under the custody and control of the Secretary of the Interior and the Secretary of Agriculture, except Indian lands, (B) lands under the custody and control of the Tennessee Valley Authority that are situated in western Kentucky and Tennessee and are designated as "Land Between the Lakes," and (C) lands under the custody and control of the Secretary of Defense;

(2) "respective agency head" means the Secretary of the Interior, the Secretary of Defense, the Secretary of Agriculture, and the Board of Directors of the Tennessee Valley Authority, with respect to public lands under the custody and control of each;

(3) "off-road vehicle" means any motorized vehicle designed for or capable of cross-country travel on or immediately over land, water, sand, snow, ice, marsh, swampland, or other natural terrain; except that such term excludes (A) any registered motorboat, (B) any military, fire, emergency, or law enforcement vehicle when used for emergency purposes, and (C) any vehicle whose use is expressly authorized by the respective agency head under a permit, lease, license, or contract; and

(4) "official use" means use by an employee, agent, or designated representative of the Federal Government or one of its contractors in the course of his employment, agency, or representation.

**SEC. 3. Zones of Use.** (a) Each respective agency head shall develop and issue regulations and administrative instructions, within six months of the date of this order, to provide for administrative designation of the specific areas and trails on public lands on which the use of off-road vehicles may be permitted, and areas in which the use of off-road vehicles may not be permitted, and set a date by which such designation of all public lands shall be completed. Those regulations shall direct that the designation of such areas and trails will be based upon the protection of the resources of the public lands, promotion of the safety of all users of those lands, and minimization of conflicts among the various uses of those lands. The regulations shall further require that the designation of such areas and trails shall be in accordance with the following—



## THE PRESIDENT

(1) Areas and trails shall be located to minimize damage to soil, watershed, vegetation, or other resources of the public lands.

(2) Areas and trails shall be located to minimize harassment of wildlife or significant disruption of wildlife habitats.

(3) Areas and trails shall be located to minimize conflicts between off-road vehicle use and other existing or proposed recreational uses of the same or neighboring public lands, and to ensure the compatibility of such uses with existing conditions in populated areas, taking into account noise and other factors.

(4) Areas and trails shall not be located in officially designated Wilderness Areas or Primitive Areas. Areas and trails shall be located in areas of the National Park system, Natural Areas, or National Wildlife Refuges and Game Ranges only if the respective agency head determines that off-road vehicle use in such locations will not adversely affect their natural, aesthetic, or scenic values.

(b) The respective agency head shall ensure adequate opportunity for public participation in the promulgation of such regulations and in the designation of areas and trails under this section.

(c) The limitations on off-road vehicle use imposed under this section shall not apply to official use.

**SEC. 4. Operating Conditions.** Each respective agency head shall develop and publish, within one year of the date of this order, regulations prescribing operating conditions for off-road vehicles on the public lands. These regulations shall be directed at protecting resource values, preserving public health, safety, and welfare, and minimizing use conflicts.

**SEC. 5. Public Information.** The respective agency head shall ensure that areas and trails where off-road vehicle use is permitted are well marked and shall provide for the publication and distribution of information, including maps, describing such areas and trails and explaining the conditions on vehicle use. He shall seek cooperation of relevant State agencies in the dissemination of this information.

**SEC. 6. Enforcement.** The respective agency head shall, where authorized by law, prescribe appropriate penalties for violation of regulations adopted pursuant to this order, and shall establish procedures for the enforcement of those regulations. To the extent permitted by law, he may enter into agreements with State or local governmental agencies for cooperative enforcement of laws and regulations relating to off-road vehicle use.

**SEC. 7. Consultation.** Before issuing the regulations or administrative instructions required by this order or designating areas or trails as required by this order and those regulations and administrative instructions, the Secretary of the Interior shall, as appropriate, consult with the Atomic Energy Commission.

**SEC. 8. Monitoring of Effects and Review.** (a) The respective agency head shall monitor the effects of the use of off-road vehicles on lands under their jurisdictions. On the basis of the information gathered, they shall from time to time amend or rescind designations of areas or other actions taken pursuant to this order as necessary to further the policy of this order.

(b) The Council on Environmental Quality shall maintain a continuing review of the implementation of this order.



THE WHITE HOUSE,  
February 8, 1972.

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FEDERAL REGISTER, VOL. 37, NO. 27—WEDNESDAY, FEBRUARY 9, 1972

LIST OF CONFEREES

Baker, E. R.  
Overlook Marina, Inc.  
Somerville, Texas

Fagerstrom, G. F.  
The Goodtime Company  
Arlington, Texas

Baker, Oralene  
Overlook Marina, Inc.  
Somerville, Texas 77879

Graham, Norris L.  
Silverlake Enterprises, Inc.  
Grapevine, Texas

Bierman, Harold A.  
Tarrant County Water Control and  
Improvement District No. One  
Fort Worth, Texas

Graybill, Jim  
Jackson Hill Marina, Inc.  
Broadus, Texas

Boyd, Rex  
Corps of Engineers  
Fort Worth District  
Fort Worth, Texas

Graybill, Lois  
Jackson Hill Marina, Inc.  
Broadus, Texas

Bradley, James R.  
Industrial Economics Research  
Division  
Texas A&M University  
College Station, Texas

Harmon, Ben  
Inland Sailboats, Inc.  
Dallas, Texas

Brown, B. R.  
Fort Worth Park and Recreation  
Fort Worth, Texas

Hundley, Byron  
Hundley Boat Company, Inc.  
Lake Dallas, Texas

Brown, Phil  
Houseman-Marsh and McLennan  
Dallas, Texas

Hundley, Ray  
Hundley Boat Company, Inc.  
Lake Dallas, Texas

Davis, L. E. (Chuck)  
Parks and Recreation  
City of Waco  
Waco, Texas

Ingram, Billie  
Industrial Economics Research  
Division  
Texas A&M University  
College Station, Texas

DeLap, Rev. Rollin  
Baptist Student Director  
University of Texas at Arlington  
Arlington, Texas

Kachnik, Joseph E.  
Southwester Windcraft  
Fort Worth, Texas

Delaune, Kathryn  
Industrial Economics Research  
Division  
Texas A&M University  
College Station, Texas

Kidd, John  
Corps of Engineers  
Fort Worth District  
Fort Worth, Texas

## LIST OF CONFEREES (Cont'd.)

Kirkwood, Pat  
Benbrook Marina  
Fort Worth, Texas

Knodel, P. L.  
Knodel Marine  
McQueeney, Texas

Knodel, Mrs. P. L.  
Knodel Marine  
McQueeney, Texas

Leatherberry, L. D.  
Galveston Yacht Basin  
Galveston, Texas

Miller, Violet (3)  
Dave's Resort  
Morgan, Texas

Nicholson, Frank R.  
American Diversified Properties,  
Inc.  
Dallas, Texas

Rapp, Gary  
Industrial Economics Research  
Division  
Texas A&M University  
College Station, Texas

Ratliff, Danny  
Twin Coves Marina, Inc.  
Colleyville, Texas

Ratliff, Skipper  
Twin Coves Marina, Inc.  
Colleyville, Texas

Robinson, Perry  
Corps of Engineers  
Fort Worth District  
Fort Worth, Texas

Schaffner, Jeff  
Uncle Gus' Lodge & Marina  
Clifton, Texas

Schaffner, Joe  
Uncle Gus' Lodge & Marina  
Clifton, Texas

Sims, Lewis  
Hundley Boat Company, Inc.  
Lake Dallas, Texas

Smith, Basil R.  
Boat Town  
Seabrook, Texas

Smith, Rick L. (3)  
Lakeview Resorts, Inc.  
Belton, Texas

Spraggins, Terry  
Valentine Marine Supply Company, Inc.  
Dallas, Texas

Strauss, Carl (2)  
Flato Construction Company  
Corpus Christi, Texas

Tearr, Rick  
Flato Construction Company  
Corpus Christi, Texas

Tingley, Charles W.  
Yacht Harbor Marina  
Lewisville, Texas

Tomlinson, Doug  
Captain's Cove Marina  
Aransas Pass, Texas

Wood, Tom  
Corps of Engineers  
Fort Worth District  
Fort Worth, Texas