

**STATEMENT OF UNDERSTANDING**

**BETWEEN**

**THE STATE OF ILLINOIS**

**AND**

**THE UNITED STATES COAST GUARD**

***I. PURPOSE:***

To continue the relationship between the State of Illinois and the United States in the conduct of Recreational Boating Safety Programs and the mutual enforcement of laws relating to boating safety on waters within the concurrent jurisdiction of the State and the United States.

***II. AUTHORITY:***

This agreement is authorized under the provisions of 46 U.S.C. 13109, to enter into cooperative agreements and other arrangements with the States, as defined in 46 U.S.C. 2101 and 2102, for the enforcement of boating laws and for coordinated joint efforts in such matters as search and rescue, issuing permits for regattas and marine parades, boating safety education, and training; as outlined in COMDTINST 16750.8A.

***III. BASIC GUIDELINES:***

A. The State and the United States exercise concurrent jurisdiction over those waters within the jurisdiction of the State that are also waters subject to the jurisdiction of the United States, except as to matters preempted by Federal law.

B. The State has exclusive jurisdiction over those waters within the State that are not waters subject to the jurisdiction of the United States or waters of the United States.

C. This understanding does not abrogate or limit the jurisdiction of the State or the United States.

D. All vessels equipped with propulsion machinery, except vessels exempt under the provisions of 33 CFR Part 173.11 or vessels documented or required to be documented by the Coast Guard, which are principally operated on waters subject to the jurisdiction of the State of Illinois, are subject to the numbering laws of that State.

E. The State shall, to the fullest extent practicable, endeavor to conform its laws, rules, and regulations to Federal law, subject to the Federal preemption provisions contained in 46 U.S.C. 4306. The Coast Guard and the State shall promptly furnish to each other the text of any proposed or enacted law, rule, or regulation having to do with numbering, titling, equipping, or operating vessels that are the subject of this Agreement and any administrative interpretations thereof.

F. The Coast Guard and the State will provide to each other a copy of statistical and other data pertinent to the matters agreed to herein.

G. When the Illinois Department of Natural Resources or other state agencies request Coast Guard Auxiliary assistance, specifically, Vessel Safety Checks (VSC), Boating Safety Courses, Search and Rescue (SAR), and Safety patrols on State waters, the assistance provided, as requested in this Statement of Understanding, is to be performed on a voluntary basis by local Coast Guard Auxiliaries.

### **III. TERMS OF UNDERSTANDING:**

#### *A. Law Enforcement.*

1. The State has primary law enforcement responsibility concerning recreational vessels on the waters subject to the jurisdiction of the United States which are also within the jurisdiction of the State. In these waters the United States has exclusive responsibility for the enforcement of vessel inspection and related Federal statutes applicable to non-recreational type vessels. Recreational boating violations observed by U.S. Coast Guard boarding officers may be referred to the State at the discretion of the District Commander.

2. In order to provide the most effective law enforcement possible with the vessels and personnel available and to avoid duplication of efforts in a given area at a given time, the Department of Natural Resources and the appropriate Coast Guard command in the area concerned shall endeavor to coordinate or arrange for coordination of law enforcement patrols on waters subject to concurrent jurisdiction.

3. Violations of Federal safety standards/laws for both recreational and non-recreational vessels and associated equipment detected by State marine law enforcement officers will be reported to the Coast Guard for disposition.

4. When a complaint is made to the Coast Guard alleging an offense, which is a violation of the State recreational boating laws or regulations, the Coast Guard will normally refer the complaint to the proper State and local authority. Similarly, when a complaint is made to the State of a violation of any vessel laws or regulations within the exclusive jurisdiction of the United States, the State will refer the complaint to the Coast Guard.

5. A Coast Guard boarding officer who has observed a violation of a State boating law or regulations or a State marine law enforcement officer who has observed a violation of vessel inspection law or regulation of the United States will generally be made available to testify for the State or Federal prosecution, for the observed offense or to testify in any other proceeding relating to the violation.

6. Coast Guard Auxiliaries may assist State agencies by standing shore based radio watches. At no time will Auxiliaries become directly involved in law enforcement actions.

#### **B. Boating Under the Influence**

1. The common goal of the Coast Guard and the State of Illinois is to rid the waterways of the intoxicated boat operator. To this end, the State of Illinois and the Coast Guard agree to coordinate their Boating Under the Influence (BUI) efforts so that the most effective enforcement option is prosecution in each case.

2. In the course of normal operations, the Coast Guard may detect an allegedly intoxicated boat operator within State waters where concurrent jurisdiction exists. When this occurs, the Coast Guard may administer a field sobriety test to the operator.

3. If the operator is determined to be under the influence of alcohol or drugs, the Coast Guard will:

- (a) Attempt to notify State enforcement officials, terminate the voyage, and bring the vessel to the nearest safe mooring where a telephone is available.
- (b) Document the case completely for whichever jurisdictional prosecution is followed (State arrest, Federal arrest, or civil penalty).
- (c) Discuss enforcement options available for the particular case with State enforcement officials.
- (d) Make the determination of which option(s) to select and proceed with prosecution.
- (e) Provide case documentation and will normally provide appropriate witnesses to pursue case prosecution, should the State decide to proceed with case prosecution.

4. The Coast Guard will, as operations permit, respond to calls for assistance from Illinois enforcement agencies with respect to Boating Under the Influence enforcement.

5. Toward the common goal of removing boaters from the waterways who are operating under the influence of alcohol or drugs and, as operations permit, Illinois enforcement agencies will:

- (a) Respond to calls for assistance from the Coast Guard with respect to Boating Under the Influence enforcement.
- (b) Determine the extent of assistance the State can offer and advise the Coast Guard.
- (c) Provide appropriate assistance within the agency's operational, logistical, and legal constraints.
- (d) Provide local Coast Guard commands with a point of contact to facilitate and enhance mutual enforcement efforts and concerns.

### *C. Public Education and Training*

1. The parties will cooperate in public educational and safety information programs. The State of Illinois will distribute the pamphlet "Federal Requirements and Safety Tips for Recreational Boats", and other Federal boating publications when the pamphlets are provided or made available by the U.S. Coast Guard. The Coast Guard will distribute any State of Illinois applications and forms for motorboat numbering, State Vessel Casualty Report Forms, and such State boating pamphlets which are made available for that purpose by the State of Illinois.

2. The Coast Guard will furnish to the State information concerning time and place of public education courses within the State which are sponsored by the U. S. Coast Guard Auxiliary. The parties will, whenever possible, cooperate in developing a public education program of boating safety to be used within the State. The Coast Guard Auxiliary will provide the Department of Natural Resources with public education assistance by conducting Vessel Safety Checks (VSC), Personal Watercraft Safety Checks and Boating Safety Courses, especially in metropolitan areas. Assistance provided by Coast Guard Auxiliarists shall be performed on a voluntary basis.

3. The Coast Guard will provide boating safety instructor training for State law enforcement personnel through the Marine Patrol Officer's Course (MPOC) at Maritime Law Enforcement Academy, located at the Federal Law Enforcement Training Center (FLETC), Charleston, South Carolina on an "as available" basis. Similarly, the State will provide to the Coast Guard, on an "as available" basis, instructors and facilities for the training of Coast Guard personnel. In addition, safe boating and/or boat handling programs may be arranged with Auxiliary resources.

#### *D. Boating Casualty Reports and Investigation Reports*

1. The State agrees to investigate all recreational boating fatalities. The Coast Guard may investigate fatalities on vessels used on waters of joint or Federal jurisdiction, including the high seas, if the case warrants further investigation.

2. The State shall review for accuracy and completeness all accident reports and shall determine the cause and circumstances surrounding each reportable accident, including whether or not alcohol or drugs were a factor.

3. For purposes of this agreement:

(a) A boating casualty is defined as an accident involving a fatality, a disappearance or a personal injury that requires medical treatment beyond first aid.

(b) An accident is defined as an incident involving damage to a vessel and other property totaling more than \$2000, or the total loss of a vessel.

4. The State shall abstract accident data from each boating accident report form and enter such data into the Boating Accident Report Database (BARD), which was developed in cooperation with the National Association of State Boating Law Administrators (NASBLA). The State agrees to ensure the quality of data entry is accurate and complete providing for a successful data transfer into the national BARD located at Coast Guard Headquarters.

5. An electronic copy of each State's accident and investigative report data, including any alcohol/drug test results, shall be forwarded to the Office of Command and Control Architecture (CG-6) at Coast Guard Headquarters within 30 days of the initial casualty or accident report. States who lack electronic data transfer technology may forward copies of the accident and investigative reports to (CG-6). The Coast Guard will review the reports and investigations received for appropriate action.

6. Upon receiving a request from the State reporting authority for information from a USCG marine casualty investigation or search and rescue operation, the USCG will provide information and data to the State reporting authority from the Marine Information for Safety and Law Enforcement (MISLE) System, as well as investigation materials and documentation available at the time of the request. Pages containing material that is not releasable to the public will be marked "FOR OFFICIAL USE ONLY." Pages from activities that are open or incomplete will be marked "DRAFT." The State reporting authority will not release to the public, or to any other agency, any information or data provided by the USCG that is marked "DRAFT" or "FOR OFFICIAL USE ONLY" without prior approval from the USCG. Request for Incident Investigation Reports must be sent to Commandant (CG-5453).

#### *E. Search and Rescue*

1. On State waters which are not within the jurisdiction of the United States, the State has exclusive responsibility for providing search and rescue service. On waters subject to the jurisdiction of the United States, the State and the Coast Guard have joint responsibility. The Coast Guard will concentrate its activity primarily on coastal waters, harbor areas, and inland water areas in the vicinity of Coast Guard facilities. On the other inland waters subject to concurrent jurisdiction, Coast Guard planners will look primarily to search and rescue facilities provided by the State and its political subdivisions. The Coast Guard Auxiliary may provide the Department of Natural Resources with Auxiliary patrol assistance on State waters, especially lakes located near major metropolitan areas. Assistance provided by Coast Guard Auxiliarists shall be performed on a voluntary and "as available" basis.

2. The State and the Coast Guard agree to coordinate their search and rescue operations so that the most effective assistance will be rendered to those in distress on the waters within the State. To this end, each will encourage the establishment of mutual assistance and cooperative arrangements between Coast Guard and State facilities which are located in the same geographic area. Coast Guard field units shall expeditiously notify the appropriate Department of Natural Resources office of any search and rescue incident and the State shall expeditiously notify the appropriate Coast Guard field unit of any search and rescue incident.

(a) The competent authority for providing Federal search and rescue assistance on Federal waters within the State south of latitude 41N is Commander, Eighth Coast Guard District, Hale Boggs Federal Building, 500 Poydras Street, New Orleans, LA 70130-3396. This authority is exercised through the District Command Center (cc), New Orleans, LA, 70130, telephone number (504) 589-6225.

(b) The competent authority for providing Federal search and rescue assistance on Federal waters within the State north of latitude 41N and east of longitude 90 W is Commander, Ninth Coast Guard District, 1240 East Ninth Street, Cleveland, OH 44199-2060. This authority is exercised through the District Command Center (cc), Cleveland, OH, telephone number (216) 902-6117 or (800) 321-4400.

(c) The competent authority for exercising coordination of State search and rescue activities on waters within the State is the Boating Law Administrator, Department of Natural Resources, 2317 East Lincoln Way, Suite A, Sterling, IL 61081, telephone number (815) 535-2097.

3. The State and the Coast Guard agree to actively support and participate in local SAR workshops, water safety councils, and other such organizations to foster closer cooperation and coordination among State and local agencies, Federal agencies and others who have an interest or responsibility in search and rescue matters.

#### *F. Coast Guard Auxiliary*

1. Under Section 141 of Title 14 United States Code, the services of the members of the Coast Guard Auxiliary may be used to assist the state in the promotion of boating safety on state waters. The State of Illinois fully supports the Coast Guard Auxiliary's programs, in particular, those to do with Vessel Safety Checks (VSC), safety patrols and public education. The State of Illinois welcomes the presence of the Auxiliary on all waters for these purposes, given that State and local officials will be informed, consulted, and given adequate notice of Auxiliary planned VSC stations and/or safety patrols.

2. On those occasions when the assistance by the Coast Guard Auxiliary is expressly desired by the State of Illinois for a specific purpose, such requests for assistance will be initiated by competent authority in the Illinois Department of Natural Resources and will be directed to either Director of Auxiliary (8ER), 601 W. Broadway, Louisville, KY 40202-2238 or Commander (dpa), Ninth Coast Guard District, 1240 East 9<sup>th</sup> Street, Cleveland, OH 44199-2060.

#### *G. Regattas and Marine Parades*

1. The authorization and regulation of regattas and marine parades upon navigable waters of the United States that are subject to the concurrent jurisdiction of the State shall be within the province of the State when, in the opinion of the District Commander, the State is able to regulate, under State law, in such a manner as to ensure safety of life. However, the regulations issued by the State may not impede the operation of other vessels, commercial or recreational, operating on waters subject to the jurisdiction of the United States.

2. For the purposes of this agreement, the terms "regatta" and "marine parade" both mean an organized water event of limited duration that is conducted according to a prearranged schedule.

3. Regattas and marine parades shall be administered in accordance with 33 CFR Part 100. The Coast Guard will provide to the State a copy of any notice of event or permit application that it receives for all events occurring on waters of concurrent jurisdiction. In turn, the State will provide to the Coast Guard a copy of any notice of event or permit application that it receives for all events occurring on waters subject to concurrent jurisdiction.

4. The cognizant District Commander reserves the right to assume primary responsibility for any regatta or marine parade on navigable waters of the United States when he/she deems such action to be in the public interest. Events of this type may include, but are not limited to:

(a) Regattas or marine parades of such size as to require patrols that the District Commander knows to be in excess of the resources available to the State, or

(b) Those events on waterways where commercial or other traffic will be substantially impeded.

5. The Coast Guard will expeditiously forward to the State copies of approved permits for marine events occurring upon waters of concurrent jurisdiction.

6. For the purpose of this agreement, the term "navigable waters of the United States" is defined as set forth in 33 CFR Part 2.05-25.

#### **V. LIAISON**

Liaison shall be as follows:

##### **FOR THE STATE OF ILLINOIS**

**JOE MORELOCK**  
Boating Law Administrator  
Department of Natural Resources  
One Natural Resources Way  
Springfield, IL 62702  
Phone: (217) 782-6431  
FAX: (217) 524-5612

##### **FOR THE UNITED STATES**

**KEVIN M. KELLY**  
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New Orleans, LA 70130-3396  
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FAX: (504) 671-2269

**FRANCIS T. JENNINGS, JR.**  
Recreational Boating Safety Specialist  
Ninth Coast Guard District  
1240 E. 9<sup>th</sup> Street  
Cleveland, OH 44199-2060  
Phone: (216) 902-6094  
FAX: (216) 902-6098

**VI. DURATION OF AGREEMENT**

This agreement remains in effect until canceled by either party. The canceling party will provide the other party with at least thirty (30) days notice. A representative of each party will review the agreement biennially for the purpose of ascertaining if any revisions are necessary. A copy of the review will be appended to each party's copy of the agreement, and a copy will be provided to Commandant (CG-5422).

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BETWEEN  
THE STATE OF ILLINOIS  
AND  
THE UNITED STATES COAST GUARD**

**STATE OF ILLINOIS**

By: JMK, CAPTAIN  
**Joe Morelock**  
Boating Law Administrator  
Department of Natural Resources

Date: 03/01/10

**UNITED STATES OF AMERICA  
DEPARTMENT OF HOMELAND SECURITY  
U. S. COAST GUARD**

By: Mary E Landry  
**Mary E. Landry**  
Rear Admiral, U. S. Coast Guard  
Commander, Eighth Coast Guard District

Date: MAR 29 2010