



# BOATING SAFETY CIRCULARULAI

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#### Boating Safety Circular

The Boating Safety Circular is a product of the United States Coast Guard's Office of Auxiliary and Boating Safety — Boating Safety Division — Recreational Boating Product Assurance Branch, Commandant (BSX-23), 2703 Martin Luther King Jr Ave SE, Stop 7501 Washington, DC 20593-7501

The Boating Safety Circular is for information only. No Federal Statutes or Regulations are established or changed in this circular.

www.uscgboating.org

## My Boat is Defective...or is it?

On many occasions, the Coast Guard's Boating Safety Division receives notifications from boat owners that their boat is defective. Most of these notifications are received through our Consumer Safety Defect Report located on our website at <u>http://www.uscgboating.org/phpcontact-form/consumer-safety-defect-</u> <u>report.php</u>. While we are responsible for recalls of recreational boats with safety defects, many cases reported to us do not meet the criteria of a substantial risk defect (safety defect).

For the Coast Guard to take action on the information provided in a "Consumer Safety Defect Report" the reported problem must relate to a boat or associated equipment less than ten years old, it must be a violation of Federal Safety Regulations, or it must be "a defect that creates a substantial risk of personal injury to the public." Our regulations and recall authority only extend to issues directly related to safety and do not include nonsafety issues resulting from the use of inferior materials or inadequate construction practices. The Coast Guard evaluates each consumer complaint

on a case-by-case basis. If we determine the problem described constitutes a violation of the Federal Regulations or is a substantial risk defect, we then contact the manufacturer of the boat or associated equipment and notify them of our preliminary findings. <u>The Coast Guard does not inter-</u> <u>vene on behalf of a consumer in a dis-</u> <u>pute with a manufacturer.</u>

The Coast Guard's determinations of a defect that creates a substantial risk of personal injury to the public (safety defect) are based on three distinct criteria: 1) The hazard must occur virtually without warning - an obvious risk or normal wear and tear do not normally create the basis for a defect; 2) The defect must occur with some frequency - one isolated occurrence usually does not constitute the basis for a finding of defect; and 3) The defect must clearly present the risk of death or serious injury. These criteria are not absolute but they provide a framework for being consistent in the application of our authority for initiating recalls of unsafe boats and associated equipment.

A boat may have a defect, but it may

	BOAT		U.S	OF HOMELAN 6. Coast Gua RT - POSSI	ard			ст	OMB No. 1625-0071 Exp. 04/30/2019
			OWNE	RINFORMAT	NOI				
Last Name First Name		First Name 8	ne & Middle Initial			Work Phone Number			Home Phone Num
Street Address		City					Sta	te	ZipCode
		BOAT	TAND	ENGINE INFO	RMA	TION	- 1		1
Boat Manufacturer Mod		Model Yea	Year Model Name		Hull Identification		ification	Number *	
* Twelve characte	r manufacture	r seriai number o	on outboa	rd starboard side	of trans	som also si	hown on Sta	te registri	ation certificate.
Boat Length	Boat Ty	pe (Ex. bown	ider, cu	ddy cabin, run	about	persona	al watercra	aft, etc.)	
Date Purchased	Dealer's	Name and A	Address	E.					
New Use	d	Recrea	ational U	Jse Comm	ercial	Use 🗌	Other* +	02	
Engine and Drive Manufac	urer		Mor	del Year	Mode	el Name o	or No.		
Gas Diesel Ir	board 0	utboard	SternD	rive Jet	Sail [	Manua	I Other		
		APPLIC	ABLE	ACCIDENT IN	FORM	ATION			
Accident Yes	No	No	o. Injurie	25	No. F	atalities	E	stimate	d Property Damage
Description of Accident									
<ul> <li>a. Authority: 5 U.S.C. 301; 14</li> <li>b. Purpose: Subparagraph 43 liems of 'designated associa with applicable Federal safet the phrase, 'designated associa coligation to respond to this appropriate action to correct response, or a summary the d. Disclosure: An agency may</li> </ul>	D(f) of Title 44 ed equipment y standards or clated equipm tion is request uestionnaire. a safety defec eof, may be u	5, United States ( "to notify owner are found to cor- ent," includes in ed pursuant to a Your response ( L. If the Coast G sed in support of	ts Act; 46 Code give s and rep ntain defe board en uthority in may be u uard proc the Coast	es the Coast Gua lace or repair boa cts related to safe gines, outboard m n 46 U.S.C. 4310 (sed to assist the beeds with admini at Guard's action.	d 33 C.F rd the a its and I aty disco totors ar f) (form Coast G strative	uthority to r terms of der overed in th nd sterndriv eny the Fec uard in det enforceme	signated ass beir products ve units. derai Boat S lermining wh nt or litigatio	afety Act ether a n n against	equipment which fail to con purposes of 46 U.S.C. 43 of 1971). You are under n anufacturer should take a manufacturer, your

not meet the criteria as a safety defect per the Federal Regulations. Here are a few examples of defects that we have received and a brief understanding of why we made our decisions.

We received a report of a 36' center console with a loose, shaking, and/or

vibrating console and also subsequent cracking in the gel coat of the deck. The owner is the second purchaser of this vessel. A marine surveyor reported that an aftermarket "buggy hard top" was added to the fly bridge or tuna tower above the factory installed hard T top. The surveyor concluded

"The Coast Guard's determinations of a defect that creates a substantial risk of personal injury to the public (safety defect) are based on three distinct criteria: ...." Continued from page 2

that the forces while underway acted upon the T tops as leverage, applying force to the deck. While this assessment seems accurate, the manufacturer cannot be held accountable for aftermarket additions to a vessel that has contributed to a defect. Secondly, as a second purchaser, there is no way to take into account how the first purchaser used the boat. Did he/she operate it at a high rate of speed through heavy sea conditions? And lastly, and most importantly, there are no regulations (laws) associated with how a console is mounted to a deck. In this case, there is most likely a defect, but not a safety defect. The actions of the current owner are between the previous owner and/or their insurance company.

We frequently receive calls and emails about delaminated hull material. Again, while this is a defect, it is not directly related to safety or to a regulation that can be acted upon. In one particular case, the owner of the boat was storing his boat while not in use within a dry storage building in south Florida. The boat was lifted to the top rack of the building for storage. It was later determined that temperatures toward the top of the metal building were exceeding over 200 degrees. If you experienced a problem like this, and you were the first purchaser or within the agreement of the warranty, then your line of action is with the manufacturer, not the Coast Guard. If the manufacturer declines service or you have issues with their service, then you will have a civil matter to be handled through the legal system.

Knowing the details of the law can be complicated, which is why we sometimes receive push back as to why and how we make our decisions. We routinely receive complaints about non-certified fuel tanks and fuel lines for outboard powered boats. Federal law 33 CFR Subpart J (Fuel Systems); 33 CFR 183.501 "Applicability" states: "This subpart applies to all boats that have gasoline engines, EXCEPT outboard engines..." The Coast Guard does not have regulatory authority over fuel systems on outboard boats.

We also take into consideration items that may warrant routine maintenance. Some hoses or components may need routine replacement or care over time. With the exception of some lakes, most "Defect Report located on our website at <u>http://</u> <u>www.uscgboating.or</u> <u>g/php-contact-form/</u> <u>consumer-safety-</u> <u>defect-report.php.</u>" "After review, the Coast Guard may decide that the issue may be a possible safety defect and will contact the manufacturer ..."

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#### Continued from page 3

boats operate within salt water; a corrosive environment. A person who does not frequently wash down or flush an outboard could be considered to have a failure due to lack of maintenance. Make sure that you consult your user manual and heed all preventative maintenance guidelines.

If you think you have a safety defect, by all means, please send it to us using the Consumer Safety Defect Report form on our website and one of our engineers will review the case. However, understand that you may or

BEACON ALERTS

may not have a safety defect. After review, the Coast Guard may decide that the issue may be a possible safety defect and will contact the manufacturer via letter and request a response to the issue or may dismiss the issue as not meeting the criteria for a safety defect. In many circumstances, the Coast Guard may not have regulatory authority over remediating an issue, but you may have the means to pursue a civil case through the legal system. In these instances, consult with an attorney.



### Grant of Exemption: An Overview

Megster's Dictionary defines exemption as, "freedom from being required to do



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GRANT OF EXEMPTION, 46 U.S.C. 4305, DHS Delegation No. 170.1(92) CGB 17-000: BOATS USA (123 Main Street, Any Town, USA: POC: John Boater).

Date of request for exemption: email dated 01 JAN 2017.

something that others are required to do." The U.S. Coast Guard's Office of Auxiliary and Boating Safety, Recreational Boating Product Assurance Branch (CG-BSX-23) is responsible for the issuance of the Grants of Exemption to recreational boating manufacturers who seek, and can fully justify, relief from portions/sections of the Code of Federal Regulations, Part 183 – Boats and Associated Equipment.

It is the responsibility of each recreational boat manufacturer to build their boat(s) to meet the requirements of the Code of Federal Regulations (CFR), Part 183-Boats and Associated Equipment, which pertain to their particular type of boat. The purpose of these regulations is to require manufacturers to build boat(s) to a specific minimum level of safety. As boat design, equipment, and building techniques progress, a manufacturer may find it impossible or unreasonable to comply with certain portions of the regulations which pertain to their boat type but they can still maintain safety as the regulations specify.

Boats normally considered for exemption because of their unique design or use are drift boats, mud/ swamp boats, personal watercraft, and hovercraft. Other boat types can be considered for exemption if the need is justified. It is the responsibility of the manufacturer to develop and build their boat(s) to meet the regulations. Only upon trying to meet the regulations and finding that it is impossible or unreasonable to comply with them, can an exemption be considered.

A manufacturer may petition the Coast Guard for an exemption by contacting Kerry L. Freese at kerry.l.freese@uscg.mil. Contact Mr. Freese if you feel you can justify an exemption from the regulations. He will discuss your need for an exemption and, if worthy of consideration, will send information to aid you in submitting a petition for exemption. What is required is a letter, on company letterhead, stating that you seek an exemption for your craft. In the letter, you must state which portion(s) of the Code of Federal Regulations you seek relief from and explain why Next page

"It is the responsibility of each recreational boat manufacturer to build their boat(s) to meet the requirements of the Code of Federal Regulations (CFR), Part 183– Boats and Associated Equipment, which pertain to their particular type of boat." "The exemption process is not a means to bypass the regulations or a loophole for manufacturers to skirt around the regulations ..."

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such relief is needed and a justification for the exemption that clearly describes why the exemption will not adversely affect the safety of the boat. Along with the letter, submit photos, drawings, schematics or anything else the petitioner believes will support their exemption request.

All petition for exemption letters will be reviewed, however, there is no requirement or guarantee that an exemption request will be approved or granted; this will be based on the determination of whether the exemption is properly justified. CG-BSX-23 will do its best to work with a petitioner to help the manufacturer through the exemption process, but we do have the final determination to grant or not grant the petitioner's request. The exemption process is not a means to bypass the regulations or a loophole for manufacturers to skirt around the regulations simply because the manufacturer does not want to comply with them. If a manufacturer has a legitimate reason as to why they are unable to comply with, or it is unrea-



sonable for them to comply with, the regulations, and they can properly justify such, then an exemption will be considered. The boating public relies on compliance with the safety regulations by the manufacturer and it is the manufacturer's responsibility to do so.

# WEAR II. It Does Save Lives!

# **Conducting Drills For Your Kids**

Consider this; you are out on your boat in open water and it's just you and your two young children on a beautiful summer day. Then the unthinkable happens, after losing your footing, you fall over the side. The boat's throttle is still clutch ahead. Now, treading water, you watch as your two children motor away from you and you are wondering if they know what to do.

board, what action would my kids take? Even at their age, I would routinely keep a Type IV throwable PFD available within arm's reach. I would have my kids drive the boat under my supervision and in an area with no boat traffic and I would toss the Type IV overboard. Then I would tell my daughters, "Daddy just fell overboard, what are you going to do?" After many trips which included spontane-



whereby they could get to the latitude Having served with the U.S. Coast and longitude screen. Later they were Guard for nearly 22 years and working competent enough to drive the boat on the water for most of that time. I back to the location of the man overhave seen similar cases such as this. I too have taken my personal boat out board (please ensure that you check with your local and state boating laws off of the Florida Keys on many occasions with my 10 and 8 year old to ensure that you have appropriately met any requirements for your childaughters onboard. As a father and a dren driving a boat as needed. In most professional mariner, I was always cases, you as the adult are the responconcerned that if I were to fall over-

ous man overboard drills, my kids were taught to at a minimum to bring the boat to neutral and to call the U.S. Coast Guard on VHF channel 16. They were also taught the basics of reading the GPS to a level

"Daddy just fell overboard, what are you going to do?"

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sible master of the vessel, but certain laws may regulate who is behind the wheel of the boat).

These drills gave me a certain comfort level that when I took my kids out on a boat that they would be able to react to emergency situations. Consider discussing or practicing other drills as well such as you becoming incapacitated or a medical injury. Having your children knowing what to do during an emergency could mean the difference between saving your life and theirs. Lastly, consider enrolling your children in boating safety classes held by the Coast Guard Auxiliary, Power Squadrons or local and state officials.

Article by CWO William Hillyer

# Is a gasoline outboard kicker too much horsepower?

It is not unusual to get a call into the Coast Guard Office of Boating Safety from any of the state boating law enforcement officials asking if a kicker can be too big or too much as determined by the capacity plate. What they observed to prompt such a call is an arrangement like the one shown in the photo (found on next page) with a capacity label like this.

The capacity label suggests that safe powering is 150 HP. The labels



on the outboard engines suggest 158 HP combined. Is this vessel out of compliance with the capacity label? The short answer is "no", but several things need to be understood for the operator to be safe as well as legal.

First "Safe Powering" is determined more by engine weight versus the size and configuration of the transom. The smaller the back end of one's boat the less HP as determined by engine weight is allowed. That is

> why remote steering allows for additional HP. The weight of the operator is moved away from the transom area which allows for higher engine weight.

> In the case above, the back end of the boat allows for 150 HP sized engine. What about the ad-

"... law enforcement officials asking if a kicker can be too big or too much as determined by the capacity plate." Continued from page 8



ditional 8 HP kicker? The label shows 720 lbs persons weight and 1500 lbs persons, motor, and gear weight. The weight of engine (with controls and battery) from Table 4 in the Boat Builder's Handbook has 575 lbs for 150 HP. That leaves 205 lbs gear weight, and only 160 lbs are prescribed for 8 HP on Table 4. The arrangement depicted above should have no trouble. Note that this arrangement falls into compliance with remote steering and even has the kicker and primary unit linked for directional control. Using a kicker that is remotely steered results in the boat having a more even weight distribution. Furthermore, having a kicker that is not linked to the primary may result in cross control issues.

Although capacity labels are required by the Coast Guard on recreational boats under 20 feet in length, they are only required to be applied by the manufacturers prior to sale. These labels provide guidance to the buyers as to what size outboard they should have and how many people should be onboard. The labels are not required by the Coast Guard after the sale of the boat. With that said, however, it is strongly advised that the owner comply with the label and maintain it within the boat. Some states require the label and most state marine enforcement officers use the capacity labels to determine whether the boat is overpowered or overloaded.

In conclusion it is legal, by Coast Guard regulation. for an operator of a recreational boat to hang a kicker on his boat. It is the safest if the kicker's arrangement falls within the "gear" weight allotment. Finally, it is the best practice to have a kicker linked to the primary outboard for remote steering control. "In conclusion it is legal by Coast Guard regulation for an operator of a recreational boat to hang a kicker on his boat."

# Notices of Defects or Non-Compliances

#### Model Year 2017

#### YAMAHA MOTOR CORP USA

(Cypress, CA)Year:2017Model(s):XBT1800A/B/CUnits:10Problem:Electrical System

#### Model Year 2016

#### YAMAHA MOTOR CORP USA

(Cypress, CA) Year: 2016 Model(s): FSH 190 Units: 147 Problem: Navigation Lights.

#### EXCEL BOAT COLLC

(Mountain View, AR) Year: 2016 Model(s): 175SWV4 Units: Problem: Capacity label and HIN.

#### LOWE BOATS

(Lebanon, MO) Year: 2016 Model(s): 20 Bay Boat Units: 1 Problem:

#### YAMAHA MOTOR CORP USA

(Cypress, CA) Year: 2016 Model(s): SJ700B Units: Problem: Steering Grip Detachment.

#### YAMAHA MOTOR CORP USA

(Cypress, CA) Year: 2016 Model(s): Various Models Units: Problem: Fuel System.

#### Model Year 2015

#### PLEASURECRAFT ENGINE GROUP

(Little Mountain, SC)Year:2015Model(s):H5/H^Units:828Problem:Electrical System and Start in Gear.

#### SEA RAY BOATS INC

(Knoxville, TN)Year:2015-16Model(s):290SB 290OBUnits:25Problem:Ignition Protection Issue.

#### <u>BRP</u>

(Benton, IL) Year: 2015 Model(s): ICON and ICON II Units: 36 Problem: Shift and Throttle.

#### COBALT BOAT

(Neodesha, KS) Year: 2015 Model(s): 296 & 302; 336 & 273 Units: 156 Problem: Fuel System.

#### MOMARSH INC

(Defiance m, MO) Year: 2015 Model(s): 12 FG Duck Units: Problem: Level Flotation

#### POTTER BUILT WELDING SERVICE

(Bristol, FL) Year: 2015 Model(s): 1654 Outboard Powered Boat Units: 1 Problem: Safe Loading Maximum Weight and All Round Lights.

#### **RHINO ROTO MOLDING**

(Maple Lake, MN) Year: 2015 Model(s):Beavertail Stealth 2000Units:4684Problem:Hull Identification Number.

#### Model Year 2014

#### <u>SEA RAY BOATS</u>

(Knoxville, TN) Year: 2014 Model(s): 270 SD & 270 OB Units: 114 Problem: Ventilation.

#### **BRP US INC.**

(Benton, IL)Year:2014Model(s):SeaDoo SparkUnits:6221Problem:Steering Column.

#### CAROLINA SKIFF LLC

(Waycross, GA)
Year: 2014
Model(s): Carolina Skiff 17 DLX
Units: 351
Problem: Safe Loading Maximum Weight.

#### G3 BOATS

(Lebanon, MO) Year: 2014 Model(s): Deep Vee Units: 50 Problem: Deck Hinge Failure.

#### **MAY-CRAFT FIBERGLASS PRODS INC**

(Smithfield, NC)Year:2014Model(s):1800 CCUnits:28Problem:Level Flotation.

#### STARDUST CRUISERS (DBA)

(Monticello, KY)Year:2014Model(s):'1508' gasoline poweredUnits:1Problem:Ventilation, Fuel System and HullIdentification Number.

#### Model Year 2013

#### BRP US INC

(Benton, IL) Year: 2013 Model(s): ICON Binnacle Units: 2230 Problem: Throttle and Shift Control.

#### **CUSTOM FIBERGLASS PROD INC**

(Bailey, NC) Year: 2013-15 Model(s): C Hawk 18 CC Units: 147 Problem: Level Flotation.

#### ESSEX PERFORMANCE BOATS

(Ontario, CA) Year: 2013 Model(s): '24 Valor' inboard powered boat Units: 1 Problem: Ventilation.

#### **TRACKER**

(Cypress, CA) Year: 2013-14 Model(s): Grizzly 1860 CC Units: 129 Problem: Flotation.

#### Model Year 2012

#### MERCURY MARINE

(Miramar, FL)Year:2012Model(s):Mercury Mariner Power Tilt SteerUnits:2315Problem:Power Tilt Steering.

#### **APPONAUG HARBOR MARINA**

(Warwick, RI) Year: 2012 Model(s): BF2.3D Motor Units: 1944 Problem: Fuel System.

#### CARAVELLE POWERBOATS

(Florence, AL)
Year: 2012
Model(s) 202 BR Inboard Powered Boat
Units: 1
Problem: Electrical.

#### SHOCKWAVE CUSTOM BOATS

(Corona, CA) Year: 2012 Model(s): '25 Tremor' Inboard Powered Boat Units: 1 Problem: Ventilation.

#### UFLEX USA, INC

(Sarasota, FL)Year:2012Model(s):X-66 Tilts Steering AssemblyUnits:1769Problem:Tilt Steering Assembly.

#### Model Year 2011

#### MCBC Hydro Boats LLC (DBA)

(Vonore, TN)
Year: 2011
Model(s): Hydra Sport Boats
Units: 259
Problem: Fuel System.

#### **INNESPACE PRODUCTIONS LLC**

(Redding, CA)Year:2011Model(s):'X-Model' IB Powered SubmersibleUnits:1Problem:Electrical System and Ventilation.

#### MERCURY MARINE

(Miramar, FL)Year:2011Model(s):40/50/60 Horsepower Four StrokeUnits:6735Problem:Fuel System.

#### MACKIE'S HOUSEBOAT PARTS AND REPAIR

(Redding, CA)
Year: 2011
Model(s): '1556 Custom' IB Houseboat
Units: 7
Problem: Ventilation and Fuel System.

#### NAUTIQUE BOAT CO INC

(Orlando, FL) Year: 2011-15 Model(s): Sport Nautique 200 Inboard Units: Problem: Navigation Lights.

#### PERKO INC

 (Miami, FL)

 Year:
 2011

 Model(s):
 0540 0580 0582 1319

 Units:
 3548

 Problem:
 Fuel System.

#### YAMAHA MOTOR CORP USA

(Cypress, CA)Year:2011-12Model(s):VXR and VXSUnits:5734Problem:Engine and Gasoline.

#### Model Year 2010

#### **MERCURY MARINE**

(Miramar, FL	
Year:	2010
Model(s):	Mercrsr Alpha & Bravo Sterndrive
Units:	12787
Problem:	Intermediate Shift Cable Separation.

#### ALEXANDRIA SEAPORT FOUNDATION

(Alexandria, VA)Year:2010Model(s):Challenge WherryUnits:1Problem:Failing boat test, failed max person inpounds, max weight capacity and flotation test for personscapacity re-tested.

#### CUMMINS MERCRUISER DIESEL

Year:1999-2010Model(s):QSM 11Units:5311Problem:Diesels with hydraulic oil coolers require<br/>bracket replacement.

#### **ELIMINATOR BOATS INC**

(Mira Loma, CA)Year:2010Model(s):'30 Daytona' Inboard PoweredUnits:1Problem:Fuel System and Ventilation.

#### MALIBU BOATS

(Merced, CA)Year:2010Model(s):Response LXUnits:31Problem:Basic Flotation.

