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December 8, 2022

Mr. Manuel Overby  
Boating Law Administrator  
New Mexico EMNRD, State  
Parks Div; Boating Safety &  
Law Enforcement  
1220 So Saint Francis Dr  
Santa Fe, NM 87505

Re: Recent Federal Recreational Boating Laws and Regulations

Dear Mr. Overby,

The States and the Coast Guard strive to maintain consistent and, when appropriate, identical recreational boating laws and regulations in our country, a key element of our longstanding mutual Memorandums of Understanding (MOU). Recently, Congress passed new recreational boating laws on mandatory use of engine cut-off switch links (ECOSL), and the Coast Guard recently promulgated safety regulations for fire protection equipment requirements for recreational vessels. This letter reviews what States must do for these new requirements.

According to Title 46 U.S.C. § 4306 ("Federal preemption"), "a State . . . may not establish, continue in effect, or enforce a law or regulation establishing a recreational vessel or associated equipment performance or other safety standard or imposing a requirement for associated equipment that is not identical to a regulation prescribed under section 4302 of this title," except insofar as the State or political subdivision may, in the absence of the Secretary's disapproval, regulate the carrying or use of marine safety articles to meet uniquely hazardous conditions or circumstances within the State.

Consequently, states with ECOSL and fire protection equipment laws and regulations different from the corresponding federal law or regulation are preempted by 46 U.S.C. § 4306. The Coast Guard has determined that recreational vessel safety should not be adversely affected in the short term by a current law differing from the Federal law. Per the following circumstances, States, Territories, and the District of Columbia ("States") should begin processing these laws and regulations so that they are identical to the requirements found in 46 U.S.C. § 4312 and 33 CFR 175 Subpart E, respectively:

**1. States with an existing ECOSL law for certain motorboats other than PWCs prior to the passage of the federal requirement:**

The following seven States had existing ECOS requirements for motorboats other than personal watercraft (PWC) and are in the process of aligning their existing state ECOSL with the requirements of 46 USC § 4312. The Coast Guard has provided each State a letter in March 2022 on this issue to align ECOS requirements:

Alabama	New Jersey
Arkansas	Nevada
Illinois	Texas
Louisiana	

## 2. States that have PWC ECOSL laws:

If a State has a PWC ECOSL law or regulation that is not identical to the 46 U.S.C. § 4312, please contact your cognizant State Program Coordinator (SPC). The SPC will work with the State to provide drafting assistance and review the State's recommended legislative or regulatory updates.

## 3. Fire protection equipment laws:

If a State has a fire protection equipment law or regulation that is not identical to 33 CFR 175 Subpart E, please contact your cognizant SPC. The SPC will work with the State to provide drafting assistance and review the State's recommended legislative or regulatory updates.

The Coast Guard and the States have worked together for many years to improve recreational boating safety, and we appreciate the cooperative relationship our boating offices maintain. We also understand some States may encounter difficulties as they pursue preemption compliance, and we encourage you to let us know if there is anything we can do to help.

If you have any questions or concerns regarding this issue, please contact your cognizant SPC or Mr. Jeff Decker at 202-372-1502 or [jeffrey.e.decker@uscg.mil](mailto:jeffrey.e.decker@uscg.mil).

Thank you for your prompt attention to this matter.

Sincerely,

**GIFFORD.VERNE.B**  
**LAKE.1009834237**

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V. B. Gifford  
Chief, Boating Safety Division  
Office of Auxiliary and Boating Safety

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