

**MEMORANDUM OF AGREEMENT
BETWEEN THE
UNITED STATES COAST GUARD
AND THE
NATIONAL PARK SERVICE
REGARDING RECREATIONAL BOATING AND PASSENGER VESSEL
SAFETY IN THE LAKE MEAD NATIONAL RECREATION AREA, GLEN
CANYON NATIONAL RECREATION AREA AND GRAND CANYON
NATIONAL PARK**

1. **PARTIES.** The parties to this Agreement are the Commander, Eleventh Coast Guard District, United States Coast Guard (hereinafter USCG), and the National Park Service (NPS), acting through the Superintendents of Lake Mead National Recreation Area (LAME), Glen Canyon National Recreation (GLCA) and Grand Canyon National Park (GRCA). Throughout this agreement the NPS and the USCG may be referred jointly as “the parties,” and LAME, GRCA, and GLCA may be referred to collectively as “the parks” or “the park areas.”
2. **AUTHORITY.** This Agreement is authorized under the provisions of:

14 USC

The USCG is statutorily authorized under 14 USC § 2 to administer laws, and promulgate, enforce and assist in enforcement of all Federal laws on, under, and over the high seas and waters subject to the jurisdiction of the United States, including United States waters falling within the aforementioned National Parks;

under authority of 14 USC § 141(b), the USCG may avail itself of the services of officers, employees, and facilities of any federal agency as may be helpful in their performance of its prescribed duties.

16 USC

The NPS has the responsibility of maintaining law and order, and protection of persons and property within areas of the National Park System, under 16 USC § 1a-6, and has the authority to make rules and regulations for the use and management of the national parks and recreation areas under 16 USC § 1a-2(h), 1a-6, 3, 460n-3(b), and 460n-5;

the NPS is authorized and empowered to regulate the use of national parks under 16 USC § 1, and is authorized to promulgate and enforce regulations concerning boating and other activities on or relating to waters located within areas of the National Park System, including waters subject to the jurisdiction of the United States, under 16 USC § 1a-2(h), which authority specifically also extends to sites designated as national recreation areas under 16 USC § 1c and 460n-5;

16 USC subsection 1a-2(h) authorizes the Secretary of the Interior to “[p]romulgate and enforce regulations concerning boating and other activities on or relating to waters located within areas of the National Park System, including waters subject to

the jurisdiction of the United States; *Provided*, That any regulations adopted pursuant to this subsection shall be complementary to, and not in derogation of, the authority of the United States Coast Guard to regulate the use of waters subject to the jurisdiction of the United States”; and

the NPS is authorized to conduct investigations of offenses against the laws of the United States committed within a national park or recreation area with the concurrence of another federal law enforcement agency having investigative jurisdiction over the offense committed, under 16 USC § 1a-6(b)(3).

33 USC § 1233

The Coast Guard is authorized to regulate marine events including regattas and parades in accordance with 33 CFR part 100.

46 USC Subtitle II

The design, construction, and manning of vessels which are required under federal law to be inspected by the USCG, and manned by personnel licensed or certified by the USCG, including inspected passenger vessels, and the investigation of accidents involving such vessels remain within the exclusive jurisdiction of the USCG, as generally provided under 46 USC Subtitle II;

under the authority of 46 USC § 13109 (b), the USCG is authorized to develop cooperative relationships with other federal agencies in developing and carrying out boating safety programs.

36 CFR part 3

The NPS has promulgated regulations governing boating and water use activities in units of the National Park System, which regulations are codified at 36 CFR part 3 (2004) and which adopt by reference the standards and regulations contained in title 14 USC and titles 33, 46, and 49 CFR;

the NPS is empowered, pursuant to 36 CFR § 3.1, to take actions authorized to be taken by a “Captain of the Port” or any other employee or officer of the Coast Guard under Title 14, U.S. Code or Titles 33, 46, or 49, Code of Federal Regulations;

authorized NPS officials are empowered to stop and board any vessel to examine documents, licenses, or permits relating to the operation of the vessel, and to inspect such vessel to determine compliance with the regulations pertaining to safety equipment and operation, and are authorized to take immediate and reasonable steps necessary to compel correction of an observed unsafe condition, under 36 CFR § 3.5;

the NPS is authorized to administer a system permitting activities that would otherwise be prohibited or restricted, and to impose public use limits, based on considerations including public health and safety, environmental values, natural and cultural resources, implementation of management responsibilities, and the avoidance of conflict among visitor use activities, pursuant to 36 CFR § 1.6, and is specifically authorized to require permits for the use of a vessel within a national park or recreation area, under 36 CFR § 3.3;

the NPS requires that a vessel operator promptly report any boating incident involving an accident, collision, fire, injury or other casualty, in addition to any other reporting that may be required under other federal or applicable state law, under 36 CFR § 3.4.

46 CFR Chapter I

The USCG has promulgated regulations governing the licensing of personnel and the manning of vessels, codified at 46 CFR chapter I, subchapter B; safety regulations governing “uninspected passenger vessels,” codified at 46 CFR chapter I, subchapter C; and safety regulations governing “small passenger vessels,” codified at 46 CFR chapter I, subchapter T.

- 3. PURPOSE.** The purpose of this Agreement is to set forth terms by which the parties will provide a joint program in order to establish cooperative oversight of recreational boating and passenger vessels safety and enforcement of regulations regarding the uses of waters subject to the jurisdiction of the United States within the park areas.

The facilities and resources of the parties are limited for carrying their respective statutory responsibilities in ensuring the promotion of safety, protection of life and property, and protection of the marine environment in the park areas. It is therefore mutually advantageous for the parties to coordinate use of their respective facilities, resources, and expertise, in conducting a program of boating safety, regulation of vessel operation, and control over the use of federally navigable waters, in light of the traditional and practical capabilities and resources of each, in order to conserve federal resources.

Generally, under this MOA the NPS will carry out the water side activities normally conducted by the USCG (e.g. boating safety enforcement, search and rescue, accident investigations, etc.). Additionally the NPS will undertake safety examinations for uninspected passenger vessels; including passenger vessels carrying 6 or fewer passengers for hire and white water river running vessels typically carrying more than 6 passengers for hire operating under a concessions contract, commercial use authorization (CUA) or special use permit (SUP) with the NPS. However, the USCG will retain exclusive jurisdiction over its activities involving small passenger vessels regulated under 46 CFR subchapter T (e.g. safety inspections, casualty investigations, etc.) and personnel licensing for inspected and uninspected passenger vessels (other than white water river running vessels).

The boating and uninspected passenger vessel safety program is intended to include recreational vessels (46 USC 2101 (25)), uninspected passenger vessels (carrying 6 or fewer passengers for hire, 46 USC 2101 (42)), and river-running vessels (commercial and non-commercial) operating according to a concession contract, CUA, or SUP issued by the NPS. Commercial river-running vessels (commonly referred to as “white water rafting” or “commercial white water activities”) operating on navigable waters of the United States hold a special status which, when they would normally be classified as a small passenger vessel carrying more than 6 passengers for hire, the

USCG has determined it will not undertake inspection and licensing action for this type of operation and vessel (ref. USCG G-MOC Policy Letter January 26, 1996 and Marine Safety Manual Vol. II, B, Ch.4). The USCG Officer in Charge of Marine Inspection, San Diego CA, determined in 1996 that: “the navigable waters from Lees Ferry to Pearce Landing on the Colorado River at the Grand Canyon National Park to be white water.” All other passenger vessels subject to inspection shall be inspected by the USCG. No vessel is exempt from inspection or examination under this MOA. All other passenger vessels subject to inspection shall be inspected by the USCG, or be in possession of a signed exemption letter from the Commandant of the USCG.

4. RESPONSIBILITIES

A. The National Park Service agrees to:

1. Develop and implement a recreational boating and uninspected passenger vessel safety program on all waters subject to the jurisdiction of the United States and located within the park areas. This program will include, but is not limited to, establishing a program of boating safety public education, safety examinations, waterborne search and rescue, regatta and marine event permitting and control, permitting of commercial and private whitewater operations, vessel accident investigation, and enforcement of laws and regulations regarding vessel operation, equipment carriage, and navigational safety requirements. While some of the duties are narrowly focused for the purposes of this MOA, the MOA is not meant to limit an agency’s actions, especially in the protection of lives, property or the environment. For example, search and rescue functions may still be rendered for vessels or persons in distress by both agencies.
2. Examine river-running vessels operating under a concession contract, CUA or SUP with the NPS shall be subject to examination by the NPS in accordance with term of the concession contract CUA, or SUP. This class of vessel must at a minimum comply with the safety requirements for an uninspected passenger vessel (46 CFR chapter I, subchapter C), without the need of a licensed operator.
3. Following all casualties or accidents within the park areas, act in lieu of the USCG as the recipient of the notification and reports required by 46 CFR part 4. In turn, the NPS will make such reports available to the USCG Sector San Diego. River-running vessels carrying passengers for hire that are involved in a casualty or accident must comply with the requirements of 46 CFR part 4.
4. Report to the USCG Sector San Diego all violations of vessel inspection, licensing, or related Federal laws by non-recreational vessels that are observed by NPS law enforcement officers.
5. Provide to the USCG Sector San Diego a copy of all applications that the NPS receives for events (e.g. regattas and parades) or permits on waters subject to the jurisdiction of the United States and located within the park areas. The NPS shall administer all such events within the park areas in accordance with 33 CFR part 100 and relevant NPS regulations.
6. Utilize the USCG Auxiliary in accordance with the following principles:
 - (1) The NPS understands and acknowledges that the USCG Auxiliary ("Auxiliary") is a component of the USCG comprised of civilian

volunteers, primarily trained to promote public boating safety. The Auxiliary's activities include safety patrols, Vessel Safety Checks (VSC's), Safety Examinations, and public boating safety education and classes. The NPS hereby requests that the USCG provide the assistance of the Auxiliary and the USCG authorizes such Auxiliary assistance in these matters.

(2) Terms of Understanding.

Auxiliary members conducting official Auxiliary activities on the Navigable Waters of the United States are operating under and subject to USCG authority, direction, and orders. All Auxiliary patrol boats operating under USCG orders shall be deemed to be Public Vessels. As volunteers, Auxiliary members have discretion over which activities they will engage in and may decline any assignment or activity they consider unsafe or dangerous. The Auxiliary has no law enforcement authority, but may avail its resources to assist with law enforcement activities that do not involve the exercise of direct law enforcement authority and are within the capability of a trained civilian volunteer. The USCG District Eleven Legal Office will be notified prior to any Auxiliary participation in Law Enforcement operations. The Duty Operational Law Attorney may be reached through the D11 Command Center at (510) 437-3701.

(3) In support of Auxiliary, the NPS shall whenever possible:

(1) provide sufficient space at launch ramps for launching Auxiliary patrol boats and, to the extent available, space at the launch ramps or other designated area for boating safety activities; (2) waive any and all NPS fees on Auxiliary members engaged in official Auxiliary activities including park entry, launch ramp, vehicle and trailer parking, day and overnight camping, and boat fees; (3) provide the Auxiliary with an assigned radio frequency and, if necessary, a radio compatible with that used for official communications between the Auxiliary and NPS personnel; and (4) work with the Auxiliary Coordinator through USCG Sector San Diego for these matters.

B. The Coast Guard agrees to:

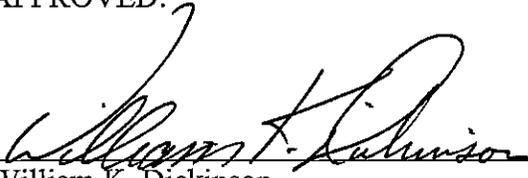
1. Retain exclusive jurisdiction over the design, construction, and manning of vessels and the inspection of and the investigation of casualties and violations of law or regulations committed by inspected vessels, (typically small passenger vessels carrying more than 6 passengers for hire regulated under 46 CFR subchapter T that are not "river running vessels"). As the NPS will most likely be first responders to a casualty involving an inspected vessel, the NPS may conduct a preliminary investigation and assist with any ongoing investigation.
2. Retain exclusive jurisdiction over the licensing of maritime personnel for both inspected and uninspected vessels.
3. Both of the parties agree to provide each other a copy of any notice of event or permit application that it receives for all events (e.g. regattas and parades) occurring on waters of concurrent jurisdiction. Regattas and marine parades shall be administered in accordance with 33 CFR part 100 and applicable NPS regulations.

4. The USCG or USCG Auxiliary will provide NPS personnel sufficient training to include qualifying them as an uninspected passenger vessel examiner. The USCG will also provide maritime casualty investigative training.
 5. Ensure liaison is maintained between the designated points of contact for the parties to ensure proper safety oversight, review of casualties or accidents (46 CFR part 4) involving river-running vessels, cooperation, mutual assistance and, as necessary, joint or coordinated action in the event of unusual occurrences beyond the resource capabilities or expertise of the NPS, the investigation of casualties and accidents and the exchange of statistical and administrative information. The cognizant USCG Officer in Charge of Marine Inspection or their Chief of Inspections (not a delegate) will meet at least annually with the NPS respective Superintendents or their designee. The purpose of the meetings will include but is not limited to: review of training and inspection polices/equivalencies and procedures, review of vessel safety examination records, review of casualty records, review of current or new policies of mutual concern, issues of training, address periodic review of MOA (paragraph 9), etc. A report on the meetings shall be generated and forwarded up the appropriate chain of commands. The USCG will maintain these reports and this MOA in the MISLE computer system under the “National Park Service, Colorado River, 1216086” Involved Party Documents
- 5. POINTS OF CONTACT.** The following shall be the primary points of contact in coordinating the responsibilities established under this Agreement: NPS – Superintendent, Lake Mead National Recreation Area, 601 Nevada Hwy, Boulder City, NV, 89005; Superintendent, Glen Canyon National Recreation Area, P.O. Box 1507, Page, AZ, 86040; Superintendent, Grand Canyon National Park, P.O. Box 129, Grand Canyon, AZ, 86023; U. S. Coast Guard Sector San Diego 2710 N. Harbor Drive, San Diego, CA 92101; U. S. Coast Guard – Commander, Eleventh Coast Guard District, Coast Guard Island, Bldg 50-6, Alameda, CA, 94501.
- 6. OTHER PROVISIONS.**
1. Each of the parties will give due deference, in the conduct of recreational or uninspected passenger vessel examinations, to evidence provided by the operator, of a recent satisfactory NPS, USCG, or State examination verifying compliance with numbering, equipment, and other safety requirements. This includes the display of a current USCG Auxiliary Courtesy Vessel Examination decal.
 2. Nothing in this Agreement is intended to conflict with current federal law or regulation or the directives of the Department of Homeland Security or the Department of the Interior. If a term of this agreement is inconsistent with such authority, then that term shall be invalid, but the remaining terms and conditions of this agreement shall remain in full force and effect.
 3. Nothing in this Agreement will be construed to abrogate any pre-existing authority, duty, or responsibility of either the NPS or the USCG.

4. The parties will each endeavor to promptly inform the other of any relevant and significant changes in the laws, regulations, and/or enforcement policies of each party, relating to the numbering, equipment requirements, or operation of recreational vessels, including penalties prescribed for violations.
5. All provisions referring to information exchange between the parties made in this agreement shall be conducted in accordance with federal law, NPS, and USCG policy.
6. This Agreement does not create a duty for the NPS, or the USCG to rescue or to assist any third party. No right of action shall accrue on this Agreement to or for the benefit of any third party.
7. This Agreement is not an agreement by the United States, the NPS, or the USCG to indemnify any party nor is it an agreement by the United States, the NPS or the USCG to assume financial, legal, or any other liabilities. This agreement is not an agreement by the United States, the NPS or the USCG to obligate or expend any funds.
7. **EFFECTIVE DATE.** The terms of this Agreement shall become effective when signed by an authorized representative of all Parties.
8. **MODIFICATION.** The terms of the Agreement may be modified at any time by mutual agreement of the Parties by a written, signed amendment hereto.
9. **PERIODIC REVIEW.** This Agreement will be reviewed every five years, for the purpose of ascertaining whether modification or replacement of the Agreement is necessary. The completion of the review, and any mutually agreed modifications to this Agreement resulting from such review shall be reflected in writing, signed by an authorized representative of each Party, and appended to each Party's copy of the Agreement.
10. **TERMINATION.** This Agreement may be terminated by any Party upon written notice to the other Party. Such notice of termination shall become effective 30 days following receipt by the other Party.

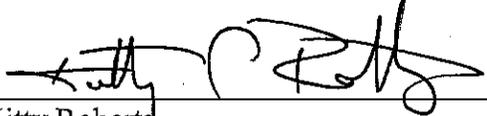
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APPROVED:



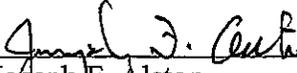
William K. Dickinson
Superintendent, Lake Mead National Recreation Area

Date: 3/9/06



Kitty Roberts
Superintendent, Glen Canyon National Recreation Area

Date: FEB 21 2006



Joseph F. Alston
Superintendent, Grand Canyon National Park

Date: 3-6-06



Kevin Eldridge
Rear Admiral, U. S. Coast Guard
Commander, Eleventh Coast Guard District

Date: 3-15-06