

MAINE STATE LEGISLATURE

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WHITEWATER RAFTING
ALLOCATION PROCESS
ANNUAL REPORT OF THE WHITEWATER
ADVISORY COMMITTEE
TO THE
MAINE STATE LEGISLATURE

JANUARY 1985

MEMBERS:

Clinton B. Townsend, Chairman
Wilmot Robinson
Sen. Zachary E. Matthews
Sen. Ronald E. Usher
Rep. Paul F. Jacques
Rep. Patrick K. McGowan

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WHITEWATER ADVISORY COMMITTEE
AUGUSTA, MAINE 04330

January 29, 1985

Sen. Charles P. Pray, President of the Senate
Rep. John L. Martin, Speaker of the House
State House
Augusta, ME 04333

Dear Sen. Pray and Rep. Martin:

Pursuant to 12 MRSA §7369-A, attached please find the annual report to the Legislature on the whitewater rafting allocation process as required by the Act to Regulate Commercial Whitewater Rafting.

Respectfully submitted,

Clinton B. Townsend
Chairman
Whitewater, Advisory Committee

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The committee terminates June 30, 1986.

II. THE 1984 RAFTING SEASON

A. The Kennebec River

Fifteen outfitters received allocations in 1984. All of these requested allocations for 1985. All but one of those not at the limit requested additional allocations. There was one new applicant but that applicant did not meet the allocation criteria. The outfitters used an average of 57% of their allotment, with the range being 78% to 42%. On the 10 best Saturdays the average percent of the allocations used was 95%.

On three Saturdays the river was at its allotment capacity of 800. On 4 other Saturdays over 700 passengers were carried.

B. The Penobscot River

Twelve outfitters received allocations in 1984. All have requested allocations for 1985, with all but one of those eligible requesting an additional allocation. Two new companies requested allocations but they did not meet the applicant requirements. One company with Sunday allocations requested them for Saturday. There were not sufficient allocations available to provide the required minimum for that company. The following table shows the percent of allocations utilized in 1984.

<u>% of Allocations Utilized</u>			
<u>Saturday</u>		<u>Sunday</u>	
<u>10 Best Days</u>	<u>All Allocated Days</u>	<u>10 Best Days</u>	<u>All Allocated Days</u>
83%	46%	65%	43%

One day last season was virtually at the total allocation level, while a total of 6 days had usage of over 500 passengers, which equates to about 90% of allotment.

C. Safety

1. Whitewater Safety Committee

The Whitewater Safety Committee's required annual report to the Advisory Committee on outfitter safety took the form of a report on passenger injuries. Almost 50% of the total injuries were reported by one outfitter. The Safety Committee made the following recommendations relative to this fact:

- (a) The safety report represents underreporting by the other outfitters, not a poor record by the outfitter in question. It appears that the current voluntary reporting system is not resulting in accurate reporting. To make this report useful the Department will explore means of obtaining accurate reporting.

(b) If one accepts the fact that the outfitter in question's record is honest and, thus, in all probability, the other outfitters have similar levels, it confirms the fact that rafting is a dangerous activity. The Department plans to introduce legislation restricting use of the river when the water is in the condition which most correlates with the incidence of accidents.

2. Department of Fisheries and Wildlife

The material made available to the committee by the Fisheries and Wildlife Department shows 9 major safety violations. One operator was convicted of 3 violations. No other operators had more than one. One operator had several citations dismissed by the court on procedural grounds.

In general, the committee is satisfied with the outfitter safety compliance record.

D. Other 1984 Activity

1. Legislation was enacted in 1984 dealing with a number of fairly minor points in the Act. The most significant was the extension of the time period for which allotments can be made from 1 to 3 years. This was done to assist outfitters in securing financing. However, outfitter performance will continue to be reviewed yearly and allotments can be changed if appropriate.

2. The Whitewater Safety Committee categorized by degree of significance the various safety violations referred to in the Whitewater Rafting Act. These categories were used in preparing the 1985 outfitter allotments.

III. Conclusions and Plans for 1985

A. General

It is felt that the allocation process is working well and with a few minor exceptions is meeting the goals set for it by the Whitewater Rafting Act. The following problems have been identified and will be dealt with as indicated.

1. Current legislation allows outfitters to occasionally exceed their allocation on an individual trip to accommodate friends of passengers. There has been fairly extensive abuse of this provision and legislation will be introduced to amend the statute in question.

2. Various groups who are not commercial outfitters in a narrow definition of the term are running commercial trips without being licensed. This will be policed carefully by the appropriate state regulatory agencies.

3. It is felt that other violations, in addition to safety, should be included in the outfitter rating system for allocations. This matter will be met through changes in rules to be promulgated by the Department of Fisheries & Wildlife as provided for in the Act. Particular attention will be given to the provision by outfitters of outlawed substances to the passengers.

4. For safety recommendations see II C 1.

B. 1985 Allotment

1. The Kennebec River

It is felt that no outfitters 1984 performance was such as to warrant his losing a portion of his allotment. Therefore, the 1985 allotments will be the same as those for 1984.

2. The Penobscot

The Fisheries and Wildlife Department has recommended that an outfitter's failure to use at least 50% of his allocation should constitute a failure of the outfitter to meet one of the allocation criteria and should result in a loss from his allocation with the amount of the loss depending on his all-factor rating for the year. Penalties are in increments of 8 passengers since this is the standard raft size. Based on this criterion, three companies lost allocations. In the case of 1 of these, this loss would have brought them below the required minimum; that company's allocation was revoked on Sunday and left in place at the minimum level on Saturday. All lost allotment places were reassigned to other existing outfitters in units of 8 based on the 1984 overall rankings of the companies which was determined by the degree of their compliance with the allocation criteria in 1984.

IV. RECOGNITION

The Committee wishes to recognize the invaluable advice and assistance by the staff members from the various departments, Messrs. Marsh, Colgan, and Hartman.

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