

3. NBSAC vs Purcell & Lincoln

Very Critical Points

Purcell & Lincoln

Edward S. Purcell and Walter B. Lincoln of the U.S. Coast Guard's Research and Development Center in Groton, Connecticut were assigned by the Coast Guard to review the existing propeller accident information, accident statistics, documents, etc. and determine what causes of action the Coast Guard needs to take to alleviate the propeller strike problem. (see more details on part 1).

Purcell & Lincoln's **March 1, 1987** final report said **they were unable to evaluate the utility of propeller guards because:** (see more details on part 2)

1. It could take years to gather accident data needed to make a decision on propeller guards.
2. You would have to consider injury data in addition to fatality propeller strike data.
3. Biomechanical studies would have to be completed before a decision could be made.
4. Mechanical studies would have to be completed and the public sector would need to be encouraged to develop propeller guards to be tested.
5. Test for injury severity would then have to be conducted.
6. Potential solutions would need to be ranked.
7. Acceptable solutions would need to be identified.
8. Validation testing would need to be performed.

NBSAC

One year later in **May 1988** U.S. Coast Guard's National Boating Safety Advisory Council (NBSAC) formed a subcommittee on propeller guards to review the existing accident statistics, documents, etc. They were given a very similar charge as was issued to Purcell and Lincoln. (see the following charts).

The primary difference between these two groups were Purcell and Lincoln were engineers while the 4 to seven men who served at a time of the NBSAC subcommittee included:

1. Two marine law enforcement officers
2. A Coast Guard Employee
3. A retired sporting goods store executive
4. A corporate attorney that was a sail boating enthusiast
5. A business agent for a maritime union
6. **Outboard Marine Corporation's Director of Environmental Affairs** (generally government regulations)

7. Mercury Marine's Corporate attorney

In addition, Mercury Marine's long time propeller injury expert witness, Richard "Dick" Snyder attended all subcommittee meetings, made two presentations, sent multiple letters to the subcommittee chair, and was allowed to rebut presentations by others.

Snyder knowingly supplied incorrect accident data to the subcommittee leading them to believe USCG reported propeller fatalities were much less common than they really were.

NBSAC Findings vs Purcell Lincoln Findings

This time Mercury and OMC got it across the goal line.

NBSAC's propeller guard subcommittee's first recommendation in their November 7 1989 final report was:

"The U.S. Coast Guard should take no regulatory action to require propeller guards."

By some phenomenon, NBSAC's subcommittee was able to reach the conclusion above without dealing with any of the eight issues listed in column 1 that prevented USCG's Purcell and Lincoln from reaching a conclusion on the same issue after reviewing many of the same materials.

NBSAC subcommittee's final report was immediately accepted by NBSAC. It was later officially accepted by the U.S. Coast Guard as representing their position on propeller guards.

Mercury and OMC immediately began using the report in court as a defense against propeller guard lawsuits and even hired the NBSAC subcommittee chair as an expert witness.

The 1989 NBSAC propeller guard subcommittee report was and continues to be incredibly successful for Mercury and OMC. It potentially saved them hundreds of millions of dollars in court.