

**COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA FISH AND BOAT COMMISSION**

**MINUTES FOR
THE BOATING ADVISORY BOARD MEETING**

**Tuesday, June 15, 2010
10:30 a.m.
Harrisburg, Pennsylvania**

.....

Daniel G. Martin

Director

Bureau of Boating and Access

**The Thirty-Seventh Meeting of the
Pennsylvania Fish and Boat Commission's Boating Advisory Board**

Members

Chair Mary Gibson
Vice-Chair Andrew Talento
Loren Lustig
Michael LeMole
Henry Grilk

Members Ex Officio

John A. Arway, Executive Director
Daniel G. Martin, Secretary
Ryan Dysinger for John Quigley, Secretary for the
Department of Conservation and Natural Resources

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I. Roll Call

The meeting was called to order at 10:30 a.m. All Members of the Board except Henry Grilk were in attendance. A quorum was present.

Commission staff present: Brian Barner, Director of Administration, Boating & Engineering; Laurie Shepler, Chief Counsel; Jason Oyler, Assistant Counsel; Tom Kamerzel, Director of Law Enforcement; Daniel Leonard, Director of Engineering & Property Services; Carl R. Richardson, Education and Outreach Section Manager; Jackie Kramer, Statewide Public Access & Conservation Lands Coordinator; Scott Bollinger, Boating Facilities Grant Program Coordinator; Ryan Walt, Regional Outreach & Education Coordinator for the Southeast Region; Laurel Anders, Strategic Initiatives and Projects; Craig Scott, Education and Outreach Curriculum Coordinator;

II. Introduction of Guests

Robert Wecker, United States Coast Guard Auxiliary Liaison; Daniel Surra, Director of the Governor's Advisory Council for Hunting, Fishing and Conservation; Charlie Johns, PA Boaters Association and U.S. Power Squadrons.

III. Approval of the June 9, 2009 Meeting Minutes

The minutes of the last meeting were approved.

IV. Elections

Mary Gibson was elected as the new Chairperson of the Boating Advisory Board. Nomination was made by Mr. Lustig. The motion was seconded by Mr. LeMole. All were in favor and the motion was carried. Andrew Talento was nominated as new Vice-Chair by Mr. LeMole. The motion was seconded by Mr. Lustig. All were in favor and the motion was carried.

V. Public Comments

None.

VI. Updates

A. Boating Facilities Grant Program – Scott Bollinger. During the first four rounds of this program the Commission approved 63 projects. All 63 are in various stages of completion and all have fully executed and signed contracts. Only three of the contracts still need invoices for their projects and require final inspection meetings scheduled for these facilities. Staff is working with the applicants to bring their contracts to completion. The 2010-2011 grant round closed on December 18, 2009. Staff received 27 grant applications. Bollinger said that individual funding requests ranged from \$9,000 to \$375,000. The total amount of grant funds requested for all projects to date is almost \$3 million. The PFBC has been awarding approximately \$1 million each year through this program. All 27 projects have been reviewed and evaluated by staff and plans are being made for recommendations to the Commission at the July Commission meeting. If necessary, funding is obtained from partnering agencies and other sources to meet the financial needs to fulfill grant requests. In the past, the PFBC has received \$8 million from other funding sources to enable us to meet the grants' financial requirements. Mr. Lustig wanted to know what the time frame that applicants are allowed for completion. Bollinger said they are given a period of two years to finalize their projects.

B. Boating Facilities – Daniel Leonard

The following access area projects are presently in progress and are expected to be completed by the end of this week:

- The parking area is being redone and a courtesy dock is being installed at the Mill Creek Access in Clarion County.
- A new boat ramp is being installed at the Greenwood Access in Perry County.
- Canadohta Access in Crawford County is getting a new boat ramp and courtesy dock.
- At the Granville Access in Mifflin County a new boat ramp is being installed and finishing work to parking area to be completed.

There are some budgeted items that must be completed by the end of this month. These include ramps, paving, bulkheads and installation of courtesy docks at Mauch Chunk Access in Carbon County and the Monongahela Access in Washington County. A large project was completed last year at Walnut Creek which included major paving work to reconfigure traffic patterns which alleviated congestion. It has been reported that these changes have made a huge difference. Again this year, dredging was completed at Walnut Creek. North East Marina required the rebuilding and refurbishment of its docks. Leonard stated that this will add ten or more years to the life expectancy of the docks. In addition, concrete work, sand movement and window replacements were completed at this marina.

The following access area projects are planned for 2010-2011:

- Wallenpaupack/ Wayne County
- Terrytown/Bradford County
- Muskrat Springs/Juniata County
- Bessemer Lake/Lawrence County
- Sugar Lake/Crawford County
- Rochester/Beaver County
- Tunkhannock/Wyoming County
- Matamoras/Pike County
- Falmouth/Lancaster County
- Donegal Lake/Westmoreland County
- Dutch Road/Erie County
- Conneaut Lake/Crawford County (annual dredging only is planned)

The subject of dredging spoils was addressed. Leonard said this silt-like material is given to local farmers and to the Corps of Engineers. This material is used/recycled or it is moved to the site designated for sand movements.

C. Access Strategy – Jackie Kramer

Access Strategy turned out to be a two-year process. Stakeholders meetings were held in 2008. Almost 600 locations were identified to need access improvement, either at existing sites or by creating new sites. A different approach had to be pursued to accomplish access strategy. Since our Commonwealth is a large state this created another challenge. As a result, a priority ranking system was created using the HUC 8 (Hydraulic Unit Classification code) watersheds. This code was established by the Federal Government. Kramer explained that there are 52 HUC 8 watersheds that are being used for the study. Nineteen criteria determine the data which enables the Commission to prioritize watersheds. We use current funding opportunities. Funding support is obtained from the Commission's Boating Facility Grant Program, the Sinnemahoning Creek Watershed Restoration Grant Program and Erie Access Improvement Grant Program. All of the above grant programs can be matched with DCNR or DEP funds.

Watershed Access Plans are developed by utilizing a database for each watershed, by forming an internal access task group, stakeholders meetings which are held in each watershed and by identifying boating and fishing access areas. The data that is available for watersheds is obtained from fishing license data, boat registrations, stocked waters and access locations. Additional information is obtained from habitat projects, the boating facility grant program, changes in population, state owned land, water trails, river conservation plans, species of concern and access needs. An additional stakeholder meeting took place this spring. There will be a future stakeholder meeting in the watersheds - date unknown at this point. Interested individuals are required to sign-up to be notified of upcoming meetings.

The criteria for evaluation of access sites include ownership, maintenance, recreational experience and location. Accessibility, water conditions, habitat/fishing resources and connectivity are also included. Overall stream quality, funding and professional judgment are also taken into consideration.

Interested individuals can help by attending stakeholder meetings. They should bring with them their data and projects. The Commission would like them to reach out to partners and private landowners and apply for grants.

D. Boat Accidents – Daniel Martin

Eleven boat accidents have been reported to the Commission so far this boating season. There have been a total of six fatalities to date. Five boat accidents involved fatalities and one was due to a heart attack. The coroner determined that the cause of death, even though it was a heart attack, was due to water being present in the lungs, hence a drowning. Recaps are not available on all of these fatalities since the investigators' reports have not yet been completed and reviewed by the Bureau of Law Enforcement. The amount of reporting data necessary when a boat fatality occurs is quite extensive.

E. Other Reports

Ryan Walt gave a brief summary on the progress of the Commission's Water Rescue Program. Ice Rescue & Emergency Response and Water Rescue & Emergency Response instructor courses were held in February. The total of active instructors in the state stands at approximately 160. Active instructors are identified as teaching courses within the past two years.

Law Enforcement officer trainees were put through all Water Rescue disciplines this year. This is the first year for this and Law Enforcement will continue this practice.

Our website now has videos that provide detailed content on the Commission's various water rescue programs. They appear on the Water Rescue portion of the Commission website. Video is embedded in some of the Power Point presentations and by using helmet cams it shows an entirely different perspective for the classroom portion of these courses. Two more instructor workshops are scheduled for later this fall. Advanced Line Systems Rescue at Stackhouse and an Emergency Boat Operations and Rescue course will be held in Warren, PA. In 2011 a WCO Water Rescue Course Update is planned. This date has not yet been determined. At the end of this month, PA Game Commission Officers are scheduled to take an Emergency Boat Operations and Rescue course at City Island from Commission instructors.

Carl Richardson updated the Board on the Commission's Boating Education Program. To summarize, the majority of certificates issued result from internet based courses. Numbers are in the range of 12,000 to 14,000 a year. These courses are delivered by two approved providers: Boater Exam.com, a firm based in Canada and Kalkomey Enterprises, based in Texas. Ninety-eight percent of individuals who pass this course apply for their certificates immediately; a small number of them wait and then apply directly through us. The agreements with our course providers require individuals to follow certain criteria in the course design, content and delivery. It is also the same criteria we use to solicit potential vendors to ensure that we are getting a good course. The importance of the criteria is that NASBLA is in the process of establishing internet standards to make these courses as universal as are classroom courses. In the past, one could breeze through the whole online course, in other words, "go through the motions," make guesses on the test and get certified. With the new criteria there is a contact time requirement that does not allow one to move through to the end of the course until all chapters and quizzes have been completed. Our goal is to make sure the quality of boating instruction that people are getting, even though it is self-directed, is as high as it can be.

As far as non-certification courses, such as paddle sports training, whether it's training people to be providers or participants in this sport, Richardson feels we are seeing a tremendous amount of growth. Most of this training is going on at state parks being delivered by state park staff.

These are pretty significant numbers and pretty significant contributions that we are making to Boating Safety Education. The Commission is working on making paddle sports safer by providing the best courses available to the public. Gibson informed the Board that Paddle Sports training is also being provided at the local Canoe Club level throughout the state primarily through the American Canoe Assn. Martin said the American Canoe Club provides great training, but it doesn't make enough courses available to the public. Richardson said we have been a regular participant in PA State Phys-Ed Teachers Professional Development Program.

We have three paddle sports based classes coming up at their November training, one includes a full day course that will result in them receiving instructor status. We are up to about 300 active instructors that are certified to teach that course, a large percentage of them are school teachers.

The subject of school-based water safety courses was discussed. Richardson said that currently in PA we have a large pool of teachers instructing the youth program (Boating & Water Safety Awareness Program). Approximately, 10,000 students go through this course each year. A local school just put their entire 6th grade through this NASBLA approved course consisting of the classroom component and extensive on-the-water experience in paddling and drown-proofing. This course is increasingly being taught throughout the state of PA every year. From experience, it has been determined that the 6th grade is an ideal age for children to be taught Water Safety.

VII. New Business

Proposed Rulemaking

A. Amendment to §53.16(d) (Special Use).

Commentary:

Section 53.16(d) of the regulations restricts the number of watercraft that may be launched or retrieved by livery operators at a Commission access to eight watercraft or less in any one-hour period except with the advance written approval of the Commission's Executive Director. Administrative Policy 2006-003 (*Appendix #5*) provides guidance and a policy for livery operators for exemption of this regulation and the criteria under which the executive Director will grant approval. Livery operators typically introduce new boaters to recreational boating and routinely provide new and existing boaters with safety instruction. Commission staff does not anticipate user conflicts from adoption of this proposal.

Staff propose that some parts of the current Administrative Policy be added to a revised regulation 53.16(d) as follows:

§53.16. Special use.

(d) *Commercial use.* – Commission-owned and controlled access areas are for the use of the fishing and boating public and will not be converted to any commercial use that in any way impairs free public use of such areas. **Limited commercial use relating to fishing and boating that does not interfere with free public use of the access will be permitted subject to the following conditions.** [The Commission finds that the commercial practice of renting or loaning large numbers of watercraft, including boats, canoes, kayaks and other devices, for launching and retrieval at Commission access areas does impair general free public use of the public facilities. It is unlawful for a commercial enterprise to use Commission-owned or -controlled access areas for the launch or retrieval of more than eight watercraft rented, loaned or supplied from one source within a 1 hour period except with the advance written approval of the Executive Director. The commercial enterprise that rents, loans or otherwise provides watercraft for launch or retrieval at Commission-owned or -controlled access areas shall be responsible to ensure that the watercraft are not used in violation of this subsection. This subsection does not apply to persons who operate an authorized concession at Commission-owned or -controlled access areas. As used in this subsection, the term “commercial enterprise” means a business that rents or loans watercraft for consideration.]

1. **All boats launched from Commission-owned and controlled access areas shall be currently registered or display current launch permit decals.**
2. **The commercial enterprise may not interfere in any way with the free public use of the ramp, parking or other facilities at the access area.**

- (i) For Commission-owned and controlled access areas with eight parking spaces or less, no more than one of the available parking spaces may be used by the commercial enterprise.**
- (ii) For Commission-owned and controlled access areas with nine to 20 parking spaces, no more than three of the available parking spaces may be used by the commercial enterprise.**
- (iii) For Commission-owned and controlled access areas of 21 parking spaces or more, no more than five of the available parking spaces may be used by the commercial enterprise.**
- (iv) Pre-trip instructions provided by the commercial enterprise to its customers shall be conducted in an area at the access area away from the launch ramp so as to not interfere with other parties launching boats.**
- 3. The commercial enterprise shall yield at all times to other public users of the boat ramp when launching or retrieving boats.**
- 4. The use of a Commission-owned and controlled access area shall be based on the facility in its current condition. The Commission will not add amenities or make improvements at the access based on increased commercial use of the access.**
- 5. This subsection does not apply to persons who operate an authorized concession at Commission-owned or controlled access areas.**
- 6. This subsection does not apply to accesses on the upper Delaware River where Commercial Use Authorization Provisions for Guides are in force by the National Park Service.**
- 7. As used in this subsection, the term “commercial enterprise” means a business that rents or loans boats for consideration.**

Discussion:

Ms. Gibson is very happy with this proposed regulation and expects to see an increase in launch permits and/or registrations because of this change. As an outfitter, most of boats used by her company do not have launch permits because there are very few times that they can do a launch with less than eight boats. With an increase in kayaking which is a solo sport – eight boats now means eight people. In the past, eight boats meant at least 16 people because they were renting canoes. Many times there was more than that because there may have been children included in those boats. Now, if there is a group of ten people, only eight kayaks can be launched and the other two individuals have to wait. As a result, the livery will not use that access area or put launch permits on their boats. With this change you will see an increase in launch permit sales or registered boats.

Martin stated that the Commission looks at it this way as well. We feel that the regulation as it stands now is too restrictive. We recognize the growth in paddle sports and we encourage it. We see liveries as entities that train paddlers and give them safety information; therefore, we look at them as our partners. As an example, if you go to a “box store” and buy a kayak, you get no instruction or training and go right out on the water. The fatalities this year resulted in the fact that these people had no clue at all about what they were doing and how dangerous water can be. Any kind of introductory instruction can prevent someone from becoming seriously injured or worse. We feel that we should be encouraging this type of sport especially at access areas that are not being

overwhelmed by other types of boating. This regulation will still restrict parking in a way that a commercial livery won't be able to take over the whole parking area at the access.

Laurie Shepler, the Commission's chief counsel, explained that even though it represents regulatory change it really doesn't represent departure from current Commission

policy. We already have the policy in place that will not allow this type of use without the Executive Director's approval. At this time, we are looking for a recommendation from the Board to the Commission. However, this item will not be on the Commission's agenda until the fall meeting. If the Commission would approve it for proposed rulemaking, we will then seek public comment. It would be good to hear the views of other livery operators as well as powered and un-powered boaters' opinions.

Director Arway brought up a question for law enforcement. He wanted to know how much of a conflict there is right now. According to Tom Kamerzel it's not an issue with law enforcement. Once a regulation is in place, we can see how well it is received by the public. He is not anticipating any problems providing the liveries are willing to work within the confines of the regulatory language. The biggest issue will be if there is a livery that's at a site and won't relinquish an access for launching to someone else in the general public who wants to use it. This is a requirement on their part. If the liveries can live with that, we can resolve just about all of the public's concerns over the use of our facilities knowing that they have the right-of-way over a livery. Ms. Gibson will include this issue in her letters that she will be sending out to fellow livery owners. She feels it is simple water courtesy and etiquette and an area in which we try to educate our staff and customers. At her business she stresses to her employees that access to ramps must be kept open at all times.

Mr. Lustig supported this endeavor. As a young person he was taught the basics of boating and therefore this increased his awareness and love of the sport. He feels that this will be a way for the youth of Pennsylvania to become more interested in the sport also. If utilizing liveries is a way that will provide good instructional packages to the youth, that is something he wants to see happen.

Briefer:

Dan Martin, Director, Bureau of Boating and Access

Action:

Mr. Talento moved to go ahead by recommending the regulatory change to the Commission. Mr. Lustig seconded the motion. The motion was carried.

B. Amendment to §95.3 (Lights for Boats).

Commentary:

Many boaters assume that docking lights may be used while a vessel is underway (when lights are required). Since docking lights can easily be **mistaken** for stern lights or all-around white lights, docking lights may **not** be displayed while a vessel is underway. However, it is clear that there is a need for boaters to use docking lights to safely approach a dock, a mooring buoy or even the shoreline. Staff therefore recommend that the existing regulation be modified to clarify when it is illegal to use docking lights.

The current regulation provides boaters with detailed information on the requirements for types, configurations and locations of navigation lights on boats. Section 95.3(a) states, in part, that “A boat from sunset to sunrise and during periods of restricted visibility shall carry and exhibit the lights prescribed by the Inland Navigation Rules.” Part C-Lights and Shapes in Rule 20 of the Inland Navigation Rules states that “The rules concerning lights shall be complied with from sunset to sunrise, and during such times no other lights shall be exhibited, except such lights as cannot be **mistaken** for the lights specified in these Rules do not impair their visibility or distinctive character, or interfere with the keeping of a proper look-out.”

Staff propose that §95.3 be amended as follows:

§95.3. Lights for boats.

(g) It is unlawful for a boat operator to use docking lights while underway except when docking and the boat is travelling at slow, no wake speed and is within 150 feet of approaching a dock, a mooring buoy or the shoreline.

Discussion:

Mr. Talento felt that 150 feet is too generous and it should be 100 feet the same as the slow-no-wake zone, so it is easier for boaters to remember this along with other rules of the water. He said that he can recognize though the need for more space. Martin said they had first thought it should be 300 ft.

John Arway suggested that the definition of a dock light should be in the regulation, just so it is not subject to interpretation. He was also concerned about bow hunters for carp and catfish who use a lighting system. This might be considered a violation of this regulation. Kamerzel explained that these are lights that are actually mounted in the hull of the boat that shine directly out onto the surface of the water. So by including this in the language would resolve the issue of hand-held lights such as what bow hunters use. A good definition will be found and added right into this regulatory language. Martin feels that this definition must be very explicit since there are other types of lights that could be mistaken for dock lights, for instance lights used when spotting for deer. Ms. Gibson wanted to clarify that only dock lights will be mentioned in the regulatory language. Ms. Shepler assured the Board that when re-crafting the language of this regulation based on the Boards comments, a clear definition of “docking lights’ to clarify

exactly what is meant by them will be in the language. Mr. Lusting said that people will try to find ways to get around the regulation. Ms. Gibson then stated that the language should be defined as permanent lights mounted within the hull of the boat and leave out [by the manufacturer], should cover any kind of modifications.

Briefer:

Dan Martin, Director, Bureau of Boating and Access

Action:

Mr. Talento made the motion with the understanding that there will be an insertion of a clear and precise definition of the term “docking lights.” Mr Lustig seconded the motion and all were in favor.

C. Addition of §111.16 (Clarion County).

Commentary:

Staff propose creating a slow, no-wake zone for just over two miles at the very uppermost limit to power boating and skiing activities created by the Piney Dam on the Clarion River (*see Appendix #2*). The Commission has received input from anglers that boats have been travelling at high speeds through the indicated section of the Clarion River causing problems with angling on this narrow section of the Clarion River. Parts of the river in this stretch are less than 200 feet across and, therefore, in essence are already slow, no-wake. The Commission's Northwest Region Manager reports that the proposed area is upstream of the very uppermost limit to where unlimited horse power boating is appropriate. The proposal would make it clear to the boating public that this section is slow, no-wake and would make enforcement of the restriction feasible by Commission law enforcement personnel.

Staff therefore propose that a new §111.16 be added as follows:

§111.16. Clarion County

Clarion River. Boats are limited to slow, no-wake speed from McGourvey Run to Blyson Run.

Discussion:

Kamerzel said it's a safety issue and oftentimes it is difficult to tell where the river is 200 feet wide and where it's 210 ft wide. In the 210 ft wide section boats can run at high speeds right up the middle of the river. The proposed regulation is designed to make it easier for the boater to understand that in this section of the river you are only allowed to travel at slow-no-wake speed. If passed, there will be buoys to clearly mark the area for boaters' information.

Briefer:

Dan Martin, Director, Bureau of Boating and Access

Action:

Ms. Gibson suggested that the Board agree with the staff proposal. Mr. Talento made the motion to proceed with the staff suggestion. Mr. Lustig seconded the motion. All were in favor and the motion was carried.

D. Amendment to §111.20 (Crawford County).

Commentary:

The Commission's existing regulation prohibits the anchoring of boats in the area along the western shoreline of Conneaut Lake commonly referred to as the "sand bar" and further provides that the no anchor zone will extend along the shoreline to a line of buoys approximately 75 feet out from the end of the steel cribs at either end of the zone.

Over the years there have been changes to the shoreline on Conneaut Lake. Waterways Conservation Officers are concerned about enforcing the existing regulation because the contours of the shoreline vary in the designated area and the end parameters (steel cribs) referred to in the regulation are no longer visible or present (*see Appendix #1*).

Staff therefore propose that §111.20 be amended as follows:

§111.20. Crawford County.

(b) *Conneaut Lake*. The anchoring of boats is prohibited in the area along the western shoreline of the lake commonly referred to as the "sand bar." The no anchor zone will extend along the shoreline to a line of buoys **[approximately 75 feet out from the end of the steel cribs at either end of the zone]**.

Discussion:

None.

Briefer:

Dan Martin, Director, Bureau of Boating and Access

Action:

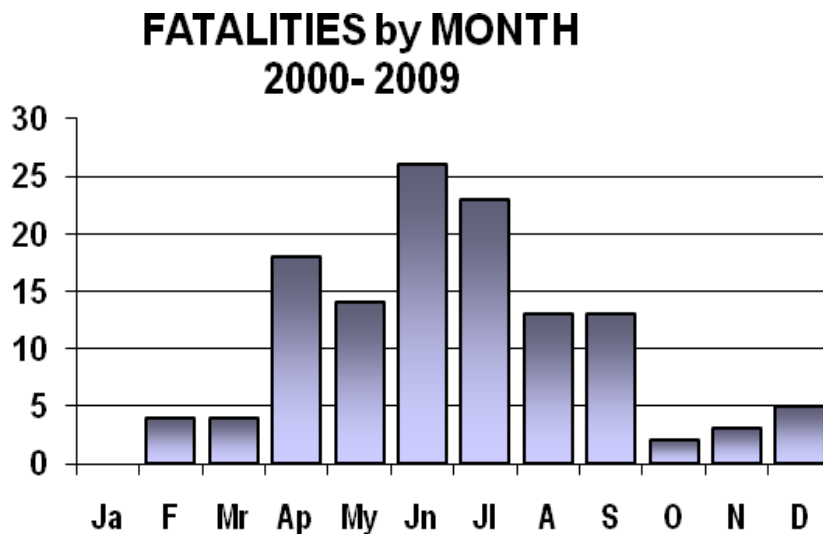
Mr. Lustig made the motion to approve the staff proposal. Mr. LeMole seconded the motion. All were in favor. The motion was carried.

VIII. Discussion Items

A. Amendment to §97.1 (Personal Flotation Devices).

Commentary:

From 2000 through 2009, one hundred and twenty-five (125) people lost their lives in recreational boating accidents in Pennsylvania (see chart below).



Total: 125 fatalities

Nov through April: 34 fatalities

Thirty-four or 27% of those fatalities occurred from November 1st through the end of April (see Appendix #3). This is significant because during those months participation in recreational boating is greatly reduced. It is proven and often demonstrated that wearing a personal flotation device saves lives. The objective of this report is to demonstrate the effect the proposed regulation may have on small boat safety in the off-season, cold water months.

(i) Between November 1 and April 30, all persons shall wear an approved Type I, II, III or V PFD onboard any unpowered boat or motorboat less than 16 feet in length when the boat is underway, drifting, anchored or not made fast to a dock, shore, or mooring.

There were twenty-eight (28) fatalities during the time period in the proposed regulation (November 1 through April 30) in unpowered boats and motorboats less than 16 feet in length. Such boats included canoes, rowboats, kayaks, small open motorboats (see Appendix #4 accident recaps).

In accidents involving eleven (11) fatalities there were no wearable PFDs onboard. Although it is possible that some of these victims would have complied with the proposed

regulation (and survived) if such a rule had been in place, it cannot be assumed so because regulations already require wearable PFDs to be onboard and they were not.

Six of the victims were wearing PFDs at the time to the mishap that resulted in their death. These unfortunate individuals would not have been saved by the proposed regulation because they were already complying with it.

Discounting the victims that had no PFDs onboard their boats, the victims that most likely would have been saved by the proposed regulation were the nine (9) individuals who died during the ten-year study period with wearable PFDs onboard their boats but were not wearing them (*see highlighted recaps in Appendix #4*). A review of the accident reports shows that wearing a PFD may have saved seven (7) of the nine (9) victims. One of the victims was elderly and died in three feet of water (see recap #12). Another victim became entangled in his anchor rope and would not have been saved by wearing a PFD (recap #14).

Therefore, optimistically, seven (7) of the victims who died in recreational boating accidents over the course of the last ten years may have been saved if the proposed regulation had been in place and they had complied with it.

Discussion:

Mr. Talento wanted to know if the Commissioners will go along with it this time, knowing the history of this matter. Martin said it has been brought up three times before and it's been close on at least two of those occasions. We have a different Board of Commissioners at this time. Some of the major opponents to this change are no longer on the Commission, but I really can't say. Mr. Talento is strongly in favor of this addition to the regulation. According to Martin, considering the warm days we get in October the water still isn't that cold. Starting in November the water gets below 70° and is considered to be cold. We had a fatality last year from cold water shock when the water was only slightly less than 70°. The person drowned on the surface of the water. In November, the number of boaters out there is greatly reduced, usually anglers getting in their fall fishing. From November through March there aren't a lot of boats out there either, but come April, trout season begins. This proposal will affect the people that go boating and fishing for trout in April and would affect pre-spawn bass fisherman also. Mr. Lustig wanted to confirm that cold-water shock was the aspiration of cold water into the lungs.

Ms. Gibson wanted to know when goose hunting season is. Director Arway said that it wouldn't overlap duck hunting season, which brought up the subject of the Game Commission and if they have weighed in at all on the past versions. Martin said they have not. Private individuals have voiced their opinions about the issue already. Martin said the last time it went out for public comment it was in two different forms. One was for wearing PFDs all year round and another was just for cold weather months. As a result, it confused the issue. The last time it also included October. Martin added that the type of people that are out there that time of year are more likely to wear life jackets

because they are more into the sport than people who just occasionally go fishing or boating.

Even though most people don't wear life jackets now, when they are required to do so, they will. It is good training for them to be required to wear a life jacket in the cold weather months, because there is the possibility that they will extend its use through the non-required periods. Again it comes down to a philosophical issue. Since boaters are required to have units on board anyway, it would not be too much of an inconvenience for the boaters to wear them. Martin is sure there will be some opposition from trout fishermen.

Mr. Lustig wanted to know if a person who was wearing an inflatable type III fell overboard and experienced cold water shock would they have the wherewithal to energize the inflatable. Absolutely not, said Martin. During a WCO training exercise, even trained officers had trouble finding the pull cord to manually inflate a life jacket in 90° water. If you put someone upside down suddenly, falling out of a boat, or by capsizing a canoe or kayak in cold water, there isn't one chance in ten that they'll be able to find the pull cord to save their lives, especially if they just aspirated cold water. These types of life jackets are in very minimal use now. They are not in common use since they cost so much. The only inflatable Martin recommends is the automatically inflatable type which can be inflated manually as well. Mr. Lustig feels that this is an unfortunate loophole that ought to be closed in our recommendation.

Ms. Gibson stated these life jackets are still available at their store. They sold maybe four of them at most in the last eight years. We still do get people coming in and asking about them, and when I explain to them why I prefer not to sell them they agree. Ms. Gibson was interested in knowing if there is anything in our boat accident records that show whether or not a manually inflatable vest was used. Martin said that if a deceased person was wearing a manually inflatable life jacket and wasn't able to inflate it, the investigating officer would almost certainly know and include that information in his report. Failure to be able to inflate a manual inflatable life jacket has not been an issue to date. These vests do meet Coast Guard regulations for Type IIIs.

Martin went into a brief history of the evolution of the life jacket. The first life jackets were very expensive and heavy so the Type II was invented which is basically a horse collar. No one wanted to wear either of them and most people still don't now. Then the Coast Guard started to approve inflatables. People will wear life jackets if it's a requirement and the best way to accomplish that is to pass a regulation. Martin suggested that it may be a good idea to put it out there for public opinion before that meeting, and maybe even two public meetings may be necessary. Ms. Shepler is sure the issue will be presented for public comment for a longer period of time than usual, more likely 60 to 90 days. Mr. Talento said a lot of fishing organizations require the use of life jackets when holding their events. Martin agreed adding that if a participant is underway without a life jacket they would be disqualified.

Briefer:

Dan Martin, Director, Bureau of Boating and Access

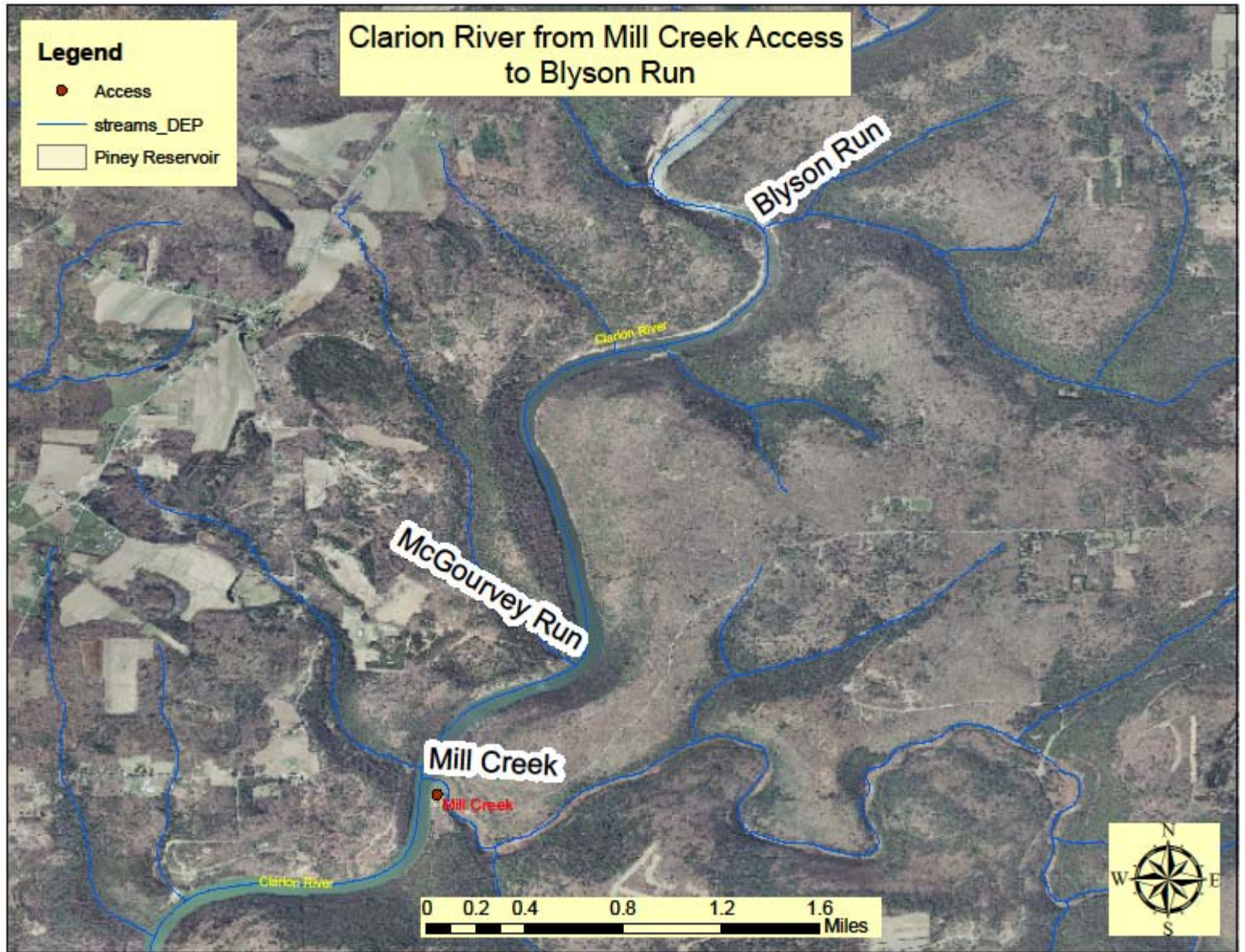
Action:

The motion was made by Mr. Talento to go ahead with the staff's proposed addition to this regulation. Mr. LeMole seconded the motion. All were in favor and the motion carried.

IX. Appendix #1



Appendix #2



Appendix #3

**PA Boating Fatal Boating Accidents 2000 – 2009
Unpowered Boats and Motorboats 15 Feet in Length or Less
November 1 through April 30**

Date of Accident	# of Fatalities	Age of Victim(s)	Body of Water	Type of Boat	No Wearable PFDs Onboard	Wearable PFDs Were Onboard Not Worn	PFDs Were Worn
12/10/00	1	47	Kiskimintas R	17 ft canoe	X		
02/08/01	1	49	Susquehanna R	14 ft o.m.b.		X	
04/07/01	1	32	Delaware R	14 ft o.m.b.	X (not a factor)		
04/08/01	1	23	Slippery Rock Cr	8 ft kayak			X
04/14/01	1	55	Lake Dresser	Kayak	X		
03/09/02	1	17	Ohio R	18 ft canoe	X		
03/15/03	1	19	Youghiogeny R	7 ft kayak			X
04/12/03	1	44	Canoe Lake	10 ft o.m.b.		X	
12/23/03	1	55	Shenango R	13 ft canoe	X		
12/30/03	2	25, 19	L Nockamixon	15 ft canoe	X		
03/05/04	1	57	Ohio R	15 ft o.m.b.			X
04/16/04	1	85	L Sheridan	14 ft row		X	
04/23/04	1	77	Marquette L	12 ft row		X	
04/26/04	1	19	Shenango R	12 o.m.b.		X	
11/28/04	1	46	Saucon C	16 ft canoe			X
03/28/05	1	59	Chrystal L Quarry	12 ft o.m.b.		X	
02/11/06	1	30	Susquehanna R	15 ft o.m.b.		X	

02/16/06	1	19	L Chllisquaque	17 ft canoe	X		
11/24/06	1	52	Clairton L	14 ft canoe	X		
04/16/07	2	21, 22	Pymatuning L	14 ft o.m.b.	X		
04/18/07	1	60	Lake Erie (PIB)	14 ft o.m.b.		X	
11/27/07	1	45	Crooked Creek	16 ft canoe		X	
12/29/07	1	23	Pond	15 ft canoe	X		
02/27/09	1	58	Susquehanna R	15 ft o.m.b.			X
04/05/09	1	65	Juniata R	14 ft o.m.b.			X
04/25/09	1	18	Delaware R	17 ft canoe	X		
TOTAL – 26 Fatal Accidents/28 Fatalities							
AVE AGE – 41 years of age							
Rivers or Creek/Lakes or Ponds - 15/11							
Type of Boat - Open Motorboat 11; Canoe 10; Kayak 3; Rowboat 2							
PFD Information – No Wearable PFDs Onboard 11; Wearable PFDS Onboard But Not Worn 9; PFD Worn 6							

Appendix #4

PA Boating Fatal Boating Accident Recaps 2000 – 2009 Unpowered Boats and Motorboats less than 16 Feet in Length November 1 through April 30

- | | | | |
|----|------------------------|--------------------------------------|--------------------------|
| 1. | 1 Fatality
12/10/00 | Kiskimintas River
After 4:00 p.m. | Indiana County
Sunday |
|----|------------------------|--------------------------------------|--------------------------|

A 47-year old man died when he apparently fell overboard from his 17-foot canoe. There were no witnesses to this accident. The victim went paddling alone on the cold river on Sunday, planning to stay overnight and then return on Monday. When he did not return as scheduled, family members called the police. Rescue personnel found the victim's body in his partially swamped canoe on Tuesday at 11 a.m. He had died of hypothermia or exposure. Evidence indicated that the victim had entered the water and had died after struggling back aboard his canoe. He was not wearing a life jacket and none was found at the scene. He was not wearing any protective clothing like a wet or dry suit. He was dressed in cotton clothing. Alcohol was a factor. The victim has very little boating experience and no formal instruction in boating safety. He was an average swimmer.

- | | | | |
|----|------------------------------|--|--------------------------------------|
| 2. | <i>1 Fatality
2/8/01</i> | <i>Susquehanna River
2:00 p.m.</i> | <i>Lancaster County
Thursday</i> |
|----|------------------------------|--|--------------------------------------|

A 49-year old angler lost his life when he apparently fell overboard from his 14-foot open motorboat. The victim was reported missing when he did not return to his vehicle. A search was begun and the victim's boat was found anchored 4-miles downriver from the launch. The victim was not onboard. The jet outboard motor was tilted up and the cover had been removed. Tools were laid out on the deck of the boat. The victim was not wearing his PFD at the time of the mishap though one was onboard. The water temperature of the river was 33 degrees so hypothermia or sudden immersion into cold water may have been factors. It is unknown if the victim could swim. The victim was a very experienced boater but it is unknown if he had any formal instruction in boating safety. The victim's body was recovered on March 21, 2001.

- | | | | |
|----|----------------------|------------------------------|--------------------------|
| 3. | 1 Fatality
4/7/01 | Delaware River
12:22 p.m. | Bucks County
Saturday |
|----|----------------------|------------------------------|--------------------------|

A 32-year old angler lost his life when his 14-foot open motorboat swamped, capsized and sank. The three men onboard got into trouble when they entered a section of the river that had strong current. The bow dipped under water, swamping the boat. Almost immediately, it capsized and began to sink. All three men went into the water. The victim began having trouble staying afloat and though assisted by the other two men, he stopped breathing. He was given CPR on shore by two witnesses and a pulse was recovered. Unfortunately, he died on the way to the hospital or shortly thereafter. The victim was an average swimmer. There were no PFDs onboard the boat. Hypothermia or sudden immersion was a major factor in this accident. The water temperature was 46 degrees. The boat had a maximum weight capacity of only 325 pounds and was rated for

two people. The three men in the boat weighed approximately 600 pounds without the motor, gas, cooler and fishing equipment that was onboard. The boat was heavily overloaded and was not seaworthy, especially in heavy current. Alcohol was a factor though not major one. The boat operator was an inexperienced boater and had no formal instruction in boating safety.

4. 1 Fatality Slippery Rock Creek Lawrence County
4/8/01 5:30 p.m. Sunday

A 23-year old paddler lost his life when his 8-foot kayak capsized and was “pinned” in a tree in the swift waters of the creek. The victim was paddling with two other individuals when he became entrapped in a tree in the water. The victim was wearing a PFD. Two fellow paddlers attempted a rescue by pulling on the victim’s PFD but were unsuccessful. The victim was an inexperienced paddler. It is unknown if he had any formal instruction in boating safety. He was a below average swimmer. Unfortunately, two volunteer fire department divers lost their lives at approximately 8:00 p.m. that same evening when they attempted to extricate the victim’s body from the “strainer.” The victim’s body was recovered the next day.

5. 1 Fatality Lake Dresser Monroe County
4/14/01 4:00 p.m. Saturday

A 55-year old paddler lost his life when he capsized his kayak. The victim was circling the small lake in his kayak when he apparently capsized. There were no witnesses to the capsizing. However, witnesses saw the victim swimming in the lake towing the kayak toward shore. They watched for about 5 minutes, wondering why someone would be swimming in the cold waters of the lake. The then saw the victim disappear and called 911. The water was 45 degrees so hypothermia was a factor. The victim was a strong swimmer and an expert paddler. In fact, he was an Olympic kayaker in Poland and a member of the U.S. national team. He often trained on the lake perfecting his stroke. He was not wearing a PFD and none was recovered. It is doubtful that there was one onboard. He had taken an American Red Cross boating course. Divers recovered his body approximately one hour after he had disappeared. CPR was ineffective.

6. 1 Fatality Ohio River Beaver County
3/9/02 12:30 a.m. Saturday

A 17-year-old paddler died when the 18-foot canoe he was paddling with a friend capsized. The surviving paddler said that he and the victim were returning to the spot where they launched when they capsized the canoe. Both men began swimming to shore. The surviving paddler stopped to remove his shoes and pants. The victim called out for help. Two-thirds of the way to shore the victim caught up to his friend, grabbed onto him and began to pull him underwater. Fearing for his life, the survivor kicked off from the victim and swam to shore. He passed out for a short period, made his way to the highway and flagged down a passing motorist. Emergency services were called at a nearby gas station. The victim was not wearing his PFD at the time of the mishap and there were none onboard. The water temperature of the river was 42 degrees, so hypothermia or sudden immersion into cold water may have been factors. The victim could swim, but he

was an inexperienced boater and did not have any formal instruction in boating safety. The victim's body was recovered on April 17, 2002.

7. 1 Fatality Youghiogheny River Fayette County
3/15/03 1:00 p.m. Saturday

A 19-year-old paddler died when he became separated from the 7-foot kayak he was paddling. The type of accident is unknown. The victim launched his boat into the high, swift waters of the river on a day the river was rated as Class IV on the International Scale of Difficulty. Two anglers spotted the victim, as he was being washed downstream, calling for help. He momentarily held onto a log wedged onto some rocks but was again swept away. The witnesses were unable to help but called 911. A helicopter spotted the victim, and two paddlers arrived on the scene to assist. They began CPR but it was too late. The victim was wearing a properly fitted PFD and a wet suit. However, the water temperature was a bone-chilling 41 degrees. Hypothermia or sudden immersion into cold water was a probable factor. The victim was a good swimmer and a very experienced boater, having served as a river guide on the Youghiogheny for one of the outfitters. It is unknown if he had any formal instruction in boating safety.

8. 1 Fatality Canoe Lake Blair County
4/12/03 11:31 a.m. Saturday

A 44-year-old angler lost his life when the 10-foot open motorboat in which he was a passenger swamped and flooded. The two brothers went fishing from the small boat on the first day of trout season. This was the first time they had used this boat. The boat was equipped with after-market, swivel pedestal seats. Witnesses stated that the boat had only two or three inches of freeboard. The victim was seated in the bow of the boat, and as he was retrieving the anchor, flooded the boat. Both men then fell into the lake's cold waters. The surviving angler apparently partially donned a type III PFD. The victim was not wearing a life jacket, though there was one onboard for him. They called for help and the victim tried to swim for shore. He went a short distance with difficulty and returned to the swamped boat where his brother was floating in the water. The survivor stated that both men were having extreme difficulty and swallowing water while waiting for rescue. Other anglers heard their calls for help and responded. This took several minutes. The rescuers threw a type III PFD to the victim but he was unable to hold on. The victim called out that he couldn't swim and began to panic. He went under and was shortly thereafter grabbed by the rescuers who hauled him into their boat. CPR was given to the victim in the boat and continued on shore. The surviving angler was treated at the hospital for hypothermia and released the following day. The water temperature was 48 degrees, so hypothermia or sudden immersion into cold water was a probable factor. Neither boater had any formal instruction in boating safety. The operator was an inexperienced small-craft operator. Ironically, the anglers had been warned earlier in the day by Commission Deputy Waterways Conservation Officers to stay off the water because the boat would be overloaded if they both went fishing.

9. 1 Fatality Shenango River Lawrence County
12/23/03 9:30 p.m. Tuesday

A 55-year-old man lost his life when his 13-foot canoe capsized. It was after dark when the victim and another man launched their canoe to hunt raccoons. They were both wearing headlights powered by batteries that were belted at their waists. There were no PFDs onboard the canoe. They shot several raccoons and were attempting to retrieve one from a logjam when their boat hit a submerged object and capsized. The survivor struggled but made it to the bank and climbed onto a logjam. He saw the victim in the water and called to him to take off his headlight. He then traveled through the woods to a highway where he flagged down a motorist who called 911. Rescue teams arrived at the scene and began to search. The canoe and some of the men's equipment were retrieved. As of this writing, the victim is still missing. The water temperature was a bone-chilling 36 degrees, so hypothermia or sudden immersion into cold water was a possible factor. The victim was a better-than-average swimmer. He was also an experienced boater and had taken a Commission boating course.

10. 2 Fatalities Lake Nockamixon Bucks County
12/30/03 unknown Tuesday

A 25-year-old man and a 19-year-old man lost their lives when their 15-foot canoe apparently capsized. The two men were duck hunting on the lake. A park employee recovered a canoe floating capsized in the lake. A search was begun and the hunter's truck, gear and canoe were recovered. A duck blind was also located near the place where the canoe was found. The blind contained several dead ducks, food and clothing, and one shotgun. It is probable that the victims capsized the canoe, possibly while attempting to retrieve a duck. Paddles and other personal items were recovered at a later date. One victim was recovered through the use of underwater sonar on 1/5/04; the other victim was recovered using the same equipment the following day. The bodies were found close together. Though the cause of the accident is unknown, both men were very inexperienced paddlers and had no formal instruction in boating safety. The canoe had been purchased the day before the accident. No PFDs were onboard. Though both victims could swim, hypothermia or sudden immersion into cold water was a possible factor.

11. 1 Fatality Ohio River Beaver County
3/5/04 2:55 p.m. Friday

A 57-year-old angler lost his life when the 15-foot open motorboat in which he was a passenger swamped and flooded. Three men went fishing on Raccoon Creek and decided to return to a nearby access on the Ohio River. The wind was blowing more than 25 mph and there were 2- to 6-foot waves on the river. They were heading upstream toward the access when a wave lifted the boat. A second wave then came over the bow, swamping

the boat and putting all three men into the water. The operator tossed a lifejacket to the surviving passenger and then grabbed a type IV PFD and attempted to swim to shore. The surviving passenger put on the life jacket that had been thrown to him by the boat's operator. He attempted to reach for the victim but could not hold on. The victim was wearing a PFD but went under the surface in the hazardous water. After the victim surfaced, the passenger lost sight of him for good when he submerged again. The victim could not swim. A crane operator on shore heard a cry for help and saw debris bobbing in the middle of the channel. He then spotted the boat operator and the surviving passenger in the water. The crane operator radioed a commercial tug to pick up the men. The tug picked up the operator and, shortly afterward, the lifeless body of the victim. CPR was initiated when they took the two men to a landing where paramedics were standing by. Another witness then noticed the surviving passenger in the water close to shore and threw him a ring buoy, pulling him to safety. All three men were transported by ambulance to the hospital, where the victim was pronounced dead. The water temperature was a bone-chilling 40 degrees. Hypothermia or sudden immersion into cold water was a probable factor. The victim was a very experienced boater but he did not have any formal instruction in boating safety.

12. 1 Fatality Lake Sheridan Lackawanna County
4/16/04 6:20 p.m. Friday

An 85-year-old angler lost his life when the 14-foot rowboat in which he was fishing capsized. Three men went fishing on the small lake. After a couple of hours they returned to shore for a break. After pushing off from the muddy bank, the victim had trouble re-entering the boat and getting to his seat. Another passenger stood up to assist and the boat capsized in three feet of water about 15 feet from shore. None of the three men could swim, and even though the boat was properly equipped with PFDs, none of the men was wearing one at the time of the accident. Because of the muddy bottom, the cold water and their poor physical condition, the two surviving fishermen had a difficult time getting to shore. They eventually bailed out the boat, returned to the water and found the victim floating with his face underwater. They took the victim to shore and then rowed to a nearby dock where medical assistance was called. The water temperature was 48 degrees, so hypothermia or sudden immersion into cold water was a probable factor. Alcohol use was also a probable factor. The operator (person rowing the boat) was a very experienced boater, but he did not have any formal instruction in boating safety.

13. 1 Fatality Marquette Lake Lebanon County
4/23/04 1:00 p.m. Friday

A 77-year-old angler lost his life when he fell overboard from a 12-foot rowboat. The victim was fishing in the lake, sitting in the rowboat's stern seat, when for an unknown reason he lost his balance and fell overboard. Witnesses said the victim was swimming by the boat after he fell overboard and at one time appeared to be standing on the lake bottom with his hands on the boat's gunwale. His efforts to re-enter the boat failed. Witnesses said the victim asked if anyone had a cell phone and that his tone of voice indicated he was not in distress. Then, according to a witness, the victim

A 59-year-old man lost his life when he somehow ended up in the water after voluntarily leaving or falling overboard from a 12-foot open motorboat. At approximately 10 a.m. the victim launched a small fishing boat borrowed from a friend to try out a new “fish finder.” He had told his wife that he would return at 1 p.m. At 5:23 p.m. the victim’s wife notified 911 that her husband was missing. Emergency response personnel found the boat floating against the south bank of the quarry in four feet of water. The victim was suspended under the boat with the bow line wrapped loosely around his body with the bitter end still held in his hand. The interior of the boat was relatively dry. The weather was severe with sleet and freezing rain and wind gusts up to 25 mph. The electric motor on the boat was probably not powerful enough to move it in the strong wind. It is possible that the victim left his boat to “pull” the boat around the lake and fell from the bank into the water. It is also possible that he fell overboard. There was a Type III PFD lying in the bow of the boat, but the victim did not wear it. He was an average swimmer. The water temperature was a bone-chilling 43 degrees so hypothermia or cold-water shock was a probable factor. The victim was an experienced boater and it is unknown if he had formal instruction in boating safety.

17.	1 Fatality 2/11/06	Susquehanna River 1:20 p.m.	Columbia County Saturday
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A 30-year-old hunter lost his life when he fell overboard from a borrowed 15-foot open motorboat. The victim dropped another hunter off at an island and was alone when he somehow ended up in the water. A witness heard someone calling for help and saw the victim in the water. The boat was still under power, turning in circles. The witness called 911 but the victim soon disappeared. The victim wasn’t wearing a life jacket, although the boat was properly equipped with PFDs. The water temperature was only 35°F, so cold water shock and/or hypothermia are probable factors. The victim could swim but was an inexperienced boater and had no formal instruction in boating safety. He was wearing hip boots at the time of the accident. The victim’s body still has not been found as of the date of this report. This is very unusual.

18.	1 Fatality 2/16/06	Lake Chillisquaque 4:30 p.m.	Montour County Thursday
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A 19-year-old paddler lost his life when the 17-foot canoe he was paddling with two others capsized. The two survivors remained with the overturned boat and were rescued. Both men were in the water for at least 30 minutes and were treated for hypothermia. The victim tried to swim to shore but did not make it. There were no PFDs onboard the canoe. Alcohol may have been a factor. The water temperature was 39° F, so cold water shock and/or hypothermia were factors. All three paddlers were inexperienced and had no known formal instruction in boating safety. It is unknown if the victim could swim. The victim’s body was recovered on March 11.

19.	2 Fatalities 4/22/06	Monongahela River 6:25 p.m.	Fayette County Saturday
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A 40-year-old angler and a 35-year-old angler lost their lives when their 16-foot open motorboat capsized below a lock and dam. A witness said that two men were fishing in a boat some 700 feet inside the restricted zone below a gate. When the gate opened, the boat capsized, putting both men into the water. A worker at the lock saw one of the victims attempting to hold onto the overturned boat. That victim was wearing a PFD. The workers at the lock closed the gate and attempted to lower a life ring, but the victim was pulled under in the turbulent water. The boat operator at the time of the accident is unknown. One victim was wearing a PFD; the other did not. It is unknown if the boat was properly equipped with PFDs. It is unknown if the operator had any boating experience or formal instruction in boating safety. Both victims could swim. The water was 58°F, so cold water shock was a probable factor. One of the victim's bodies was recovered a week later; the other was not found until August 30.

20.	1 Fatality 11/24/06	Clairton Lake 2:35 p.m.	Somerset County Friday
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A 52-year-old angler lost his life when his 14-foot canoe from which he was fishing capsized. Two men were fishing from the small canoe when the operator dipped his paddle in the water, causing the canoe to capsize suddenly. The operator tried to tow the victim to shore, but when the victim panicked, the would-be rescuer lost his grip and the victim went underwater. The survivor was treated for hypothermia and released. The water temperature was only 45°F, so cold water shock and hypothermia were probable factors. There were no PFDs onboard the canoe. Alcohol was a factor. The victim could not swim. The surviving paddler was a very experienced boater. It is unknown if he had any formal instruction in boating safety. The victim's body was recovered by a dive team late the same day.

21.	<i>1 Fatality 4/18/07</i>	<i>Lake Erie (Presque Isle Bay) 11:30 a.m.</i>	<i>Erie County Wednesday</i>
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A 60-year-old angler lost his life when he fell overboard from a 14-foot open motorboat. Two men went fishing and were positioned 30 yards from shore when they decided to change anchors on the boat to adjust for the wind and waves. The operator put the motor in neutral. The wind turned the boat so that its gunnel was exposed to the incoming wave action. The victim attempted to hand the front anchor to the boat operator and fell overboard causing the boat to capsize. The operator saw the victim and yelled to him but could not understand what the victim said. At this time two boats in the area proceeded to the scene and threw Type IV PFDs to the victim. He failed to grab the PFDs and apparently disappeared. During the rescue attempt, the operator held onto the boat and kicked it to shore. The people in the other two boats at the scene attempted to find the victim with no success. The boat operator waded back out into the cold water to search as well. The victim could swim. PFDs were onboard but not worn. The water temperature was 39 degrees, so sudden immersion into cold water (cold water shock) was a factor. The boat operator was an experienced

could not enter the kayak. The victim then attempted to hang onto the kayak while the passenger paddled to shore, causing the passenger's kayak to capsize. The passenger again swam to shore and yelled to the victim to swim to safety. The victim made a few struggling attempts but was unsuccessful. The passenger then recovered the victim and performed rescue breathing without success. He then paddled to his home and called 911. The water temperature was 38 degrees so cold water shock and/or hypothermia were major factors in this accident. The victim was an average swimmer, an experienced boater but had no formal instruction in boating safety.

25.	1 Fatality 4/5/09	Juniata River 4:00 p.m.	Mifflin County Sunday
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A 65-year-old man lost his life when his 14-foot open motorboat swamped and flooded. The victim had gone boating with his wife and 6-year-old grandson. The victim improperly anchored the boat from the stern in the high swift river. Water immediately began flooding into the boat, causing it to swamp and flood. The victim's wife moved forward in the boat to attempt to stabilize it and the boat capsized. All three occupants were pulled from the water approximately 400 yards downstream by shore-line anglers. The boat was not legally equipped with PFDs. The child was wearing an adult-sized life jacket, the only wearable PFD on board. Two Type IV throwable PFDs were also onboard. The male operator was given CPR at the scene but never revived. He could swim but had a history of cardiac issues. His wife was transported to the hospital where she went into cardiac arrest but recovered. The child was treated for mild hypothermia and released. The water temperature was 49 degrees so cold water shock and/or hypothermia were major factors in this accident. The victim was an experienced boater but had no formal instruction in boating safety.

26.	1 Fatality 4/25/09	Delaware River 2:00 a.m.	Northampton County Saturday
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An 18-year-old man lost his life when the 17-foot canoe he was paddling with three others capsized. Nine persons, all in their teens, borrowed a canoe and paddled out to an island in the river. At approximately 2:00 a.m., two males and two females boarded the canoe to travel back. There were no PFDs onboard the canoe. As they paddled back, the canoe turned sideways in the current and capsized. Two females and one of the males swam to shore. Although the victim could swim, he did not make it. His body was found approximately 150 feet downstream from where the boat capsized at 12:36 p.m. Alcohol may have been a factor. The water temperature was 48-50 degrees so cold water shock and/or hypothermia were major factors in this accident. Neither of the two paddlers was experienced boaters and they had no formal instruction in boating safety.

Appendix #5

**COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA FISH & BOAT COMMISSION**

ADMINISTRATIVE POLICY

SUBJECT: Criteria for Approval of Exemption of Section 53.16(d)
NUMBER: 2006-003
AUTHORIZED BY: Dr. Douglas J. Austen
Executive Director
EFFECTIVE DATE: May 26, 2006

This policy provides guidance for consideration of exemption to Section 53.16(d) of the Fishing and Boating Regulations. The Section states in part: “It is unlawful for any commercial enterprise to use Commission-owned or controlled access areas for the launch or retrieval of more than eight (8) watercraft rented, loaned, or supplied from any one source within a one-hour period except with the advance written approval of the Executive Director.”

Policy

It is the policy of the Pennsylvania Fish & Boat Commission that the Commission’s Executive Director will grant exemption to Section 53.16(d) based on the following criteria:

1. This exemption applies to Pennsylvania Fish & Boat Commission-owned or controlled boat access areas only. For boat access areas controlled by the Fish & Boat Commission but owned by an entity other than the Commission, the commercial enterprise must obtain the written permission of that entity prior to seeking an exemption from the Commission.
2. All Pennsylvania Fish & Boat Commission-owned or controlled boat access areas for which an exemption is requested must be identified in advance by the commercial enterprises.
3. No exemption will be issued for commercial enterprises for the upper Delaware River accesses where Commercial Use Authorization Provisions for Guides are in force by the National Park Service.
4. All watercraft used by the commercial enterprise requesting this exemption must be currently registered or display current launch permit decals.
5. No exemption will be granted at Commission-owned or controlled boat access areas on the opening days of Pennsylvania’s trout and bass seasons.
6. The commercial enterprise must agree to not impair in any way general free public use of the ramp, parking or other facilities at the access area, specifically:

- For access areas with less than twenty (20) parking spots, no more than three (3) of the available parking spaces at the access area may be used by the commercial enterprise.
 - For access areas of twenty (20) parking spots or more, no more than five (5) of the available parking spots may be used by the commercial enterprise.
 - Commercial enterprises issued this exemption agree to not use any Commission-owned or controlled boat access area to launch boats more than twice in any one day or more than twenty-four (24) boats at one time.
 - Pre-trip instruction by the commercial enterprise to customers must be conducted in a location at the access area away from the launch ramp so as to not interfere with other parties launching boats.
 - All boats must be launched or retrieved and the ramp cleared within a 30-minute time period.
8. The commercial enterprise granted an exemption must yield at all times to other public users of the boat ramp when launching or retrieving boats.
 9. The use of the Commission-owned or controlled boat access area is based on the facility in its current condition. The Commission will not add amenities or make improvements at the access based on increased commercial use of the access.

This policy remains in effect until revised or rescinded by the Executive Director.