

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

**AGENDA FOR
THE BOATING ADVISORY BOARD MEETING**

Monday, February 5, 2024

10:00 a.m.

Harrisburg, Pennsylvania

Members

Chair Scott Ballantyne

Vice Chair Rocco Ali

Steven Ketterer

Loren Lustig

Elizabeth Winand

Members Ex Officio

Timothy D. Schaeffer, Executive Director

Paul W. Littman, Director of Boating, Secretary to the Board

Ryan Dysinger for Cindy Adams Dunn, Secretary for the
Department of Conservation and Natural Resources

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- VI. Old Business - None
- VII. New Business
 - A. Amendments to 58 Pa. Code Chapter 117 (Boat rental businesses)
- VIII. Other Business
- IX. Discussion Items
 - A. Abandoned and Derelict Vessels (Sean Gimbel)
 - B. Boating Facility Grant Program Overview (Mark Morrison)
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- X. Adjourn

NEW BUSINESS

A. Amendments to 58 Pa. Code Chapter 117 (Boat rental businesses).

Commentary:

Boat rental businesses, also known as liveries, provide introductory experiences for newcomers to boating, convenient adventures for outdoor recreationists, and opportunities to participate in boating without the commitment of boat ownership. They also provide unique experiences such as whitewater rafting, overnight stays in houseboats, and opportunities to try the latest trends in boating technology. Boat rental operations in Pennsylvania have increased in number and expanded available opportunities in recent years. Because these businesses provide a wide variety of services to a broad diversity of people and are often a gateway to boat ownership, boat rental businesses play an important role in boating safety.

Pennsylvania law ([Title 30 Pa.C.S.A. § 5122\(a\)\(2\)](#)) authorizes the Pennsylvania Fish and Boat Commission (Commission) to promulgate rules and regulations relating to boat rental business operators. The Commission's regulations relating to boat rental businesses were originally adopted in 1994 and last amended in 2003. These regulations authorize the Executive Director to provide guidance relating to boat rental orientation/introduction requirements which are posted on the [Pennsylvania Boat Rental Business page](#) of the Commission's website.

Waterways Conservation Officers (WCOs) have identified issues, including lack of clarity, with current boat rental regulations and guidelines. Additionally, technological advances have created specific challenges and opportunities regarding boat rental business operations. Commission staff launched a Livery Workgroup in February 2022 and initiated livery visits to identify challenges, gather information, and recommend updates to the Commission's boat rental business regulations and requirements to enhance communications and compliance, increase boating safety, and reduce conflicts on the water.

The most common challenges identified include:

- Many boat rental businesses are unknown to the Commission and, conversely, many boat rental businesses are unaware of the regulations that apply to their operations.
- Some boat rental businesses are renting boats without proper marking and/or boat registration or launch permits.
- Some boat rental business operators and their employees are not well informed of boating regulations in general and specific to the boats they are renting.
- Some boat rental business operators are not providing proper or complete safety orientations to customers.
- Boating accidents, including those that involve rental boats, require immediate notification to the Commission so that timely investigations may occur.
- Boat rental customers frequently do not carry copies of their rental agreement or safety guidelines with them during the rental period.

The Commission has three primary mechanisms to enhance boat rental business operations and improve rental boat safety: regulatory amendments, updates to the Executive Director’s guidance, and proactive interactions between WCOs and boat rental business operators.

First, Commission staff have identified some immediate and timely regulatory amendments to 58 Pa. Code Chapter 117 to provide clarity and consistency for rental boat operations and ensure safe enjoyable experiences for renters. These amendments are consistent with the [*The Strategic Plan of the National Recreational Boating Safety Program 2022-2026*](#), developed by the United States Coast Guard (USCG) in collaboration with the National Boating Safety Advisory Committee. This plan contains an action item to “create a safety culture among livery operators” and related initiatives to prevent deaths and injuries of recreational boaters. Commission staff will continue to follow and, when possible, become engaged with this action item at the national level to ensure that the Commission’s regulations and safety orientation guidelines are in alignment with recommendations and best practices established from this effort.

Secondly, Commission staff have identified updates to the Executive Director’s guidance for rental boat educational requirements and safety orientation guidelines. These updates provide specific instructions and clarify the orientation materials, minimum information to be covered and the procedures that boat rental businesses must follow to conduct safety orientations. The updated *Boat Rental Safety Orientation Guidelines* are attached as Exhibit A.

Finally, Commission staff are drafting recommended procedures and checklists to assist WCOs with conducting annual visits with boat rental businesses to facilitate ongoing communications, share updated regulations and safety orientation resources, and proactively address operational deficiencies.

On October 11, 2023, the Commission issued a press release to invite boat rental business operators to complete a questionnaire regarding their rental business operations. Boat rental business operators were also invited to review and provide feedback on the draft regulatory amendments and safety orientation guidelines prepared by Commission staff. All feedback was reviewed and considered as final modifications were made to the drafts before presenting the changes to the Boating Advisory Board.

Staff propose the following changes to 58 Pa. Code Chapter 117:

§ 117.1. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Boat livery—A commercial enterprise (person, partnership, corporation or other legal entity) that rents or leases rental boats to other persons for use on the waters of this Commonwealth.

Boat rental business—A boat livery.

Boat rental transaction—The exchange of consideration in the form of money, goods or services for the use of a rental boat for a period of time.

Livery operator—The owner or lessee of a boat livery and **[employees] employees** and other persons authorized to act on behalf of the boat livery.

Rental boat—A vessel propelled by oars, paddles, sail or power, rented or leased in this Commonwealth.

(i) The term includes canoes, kayaks, **paddleboards**, inflatable boats, rowboats, sailboats, personal watercraft, and other motorboats.

(ii) The term does not include inner tubes or similar devices not considered to be boats under this title.

§ 117.2. Inspections.

(a) A livery operator shall inspect its rental boats on a regular basis and shall maintain its rental boats in good repair. It is unlawful for a livery operator to rent or use a rental boat that is not in good repair and serviceable condition.

(b) A livery operator shall permit inspection of equipment, facilities and documentation required by this chapter by a waterways conservation officer or other officer authorized to enforce the code.

(c) A livery operator shall correct deficiencies noted by a waterways conservation officer or other officer authorized to enforce the code within 2 weeks of notification. If the deficiency involves equipment, the livery may not use the equipment until the deficiency is corrected.

§ 117.3. Responsibilities.

(a) A livery operator shall provide their business information, including business name, address, and types of boats rented, on a form provided by the Commission. If a change in business name, address or contact information occurs, the livery must provide an update to the Commission within 15 business days. Advertising by any means, including, but not limited to, websites, business cards, brochures, newspapers, periodicals, or billboards, that a person provides boat rentals shall be prima facie evidence of a boat livery operation.

(b) Any livery operator or employee who conducts the required safety orientation for motorboat rentals must possess a boating safety education certificate issued by the Commission or other valid documentation specified by this title and produce it upon the request of a waterways conservation officer or other officer authorized to enforce the code.

[(a)](c) It is unlawful for a livery operator to permit a rental boat to depart from the boat rental business without the equipment required by this title for the type of boat being rented **and boat registration or use permit affixed to the boat as required by this title for the access area(s) or waterway where the boat will be operated during the rental period.**

[(b)](d) A livery operator shall **[offer] provide** to all persons **[renting] operating rental** boats an orientation/introduction to boating safety and conditions, including a review of the laws and regulations applicable to the type of boat being rented and the waters on which the boat will be used. The Executive Director will provide guidance **[i]on the [preparation]content and documentation** of this orientation. **[Persons who produce a Boating Safety Education Certificate issued or approved by the Commission under § 91.6 (relating to certificates) are exempt from review.]**

[(c)](e) Boat rental transactions shall be made using a written agreement, specifying the name and address of the **boat rental business and** lessee, **the names of all individuals completing the required orientation/introduction to boating safety,** and **[date of departure]the rental period. The lessee shall provide a copy of the boat rental agreement upon request to a waterways conservation officer or other officer authorized to enforce the code .**

[(d)](f) Livery boats shall be clearly marked on both sides for easy identification of the business. Each boat shall be marked with letters, numbers or decals at least 3 inches tall.

[(e)](g) A livery operator shall only rent boats that meet or exceed minimum United States Coast Guard requirements for boats of that type. Rental boats shall be of a design and material suitable for their intended use.

[(f)](h) A livery operator shall **notify the Commission of [submit a boating accident report for]** all reportable accidents involving one or more of the rental boats in accordance with Chapter 101 (relating to boating accidents). This requirement is in addition to the requirement that the operator of the boat file a boating accident report **in accordance with Chapter 101.**

[(g)](i) It is unlawful for a livery operator to rent or use a boat in excess of its capacity as set forth by the manufacturer for the total number of passengers, total weight or maximum horsepower.

§ 117.4. Motorboat liveries.

(a) [In addition to the requirements of § 117.3 (relating to responsibilities), a livery operator that rents boats equipped with motors greater than 25 horsepower and personal watercraft shall verify that operators of these boats either possess a permanent Boating Safety Education Certificate or have obtained a temporary Boating Safety Certificate from the livery. The Executive Director may authorize boat liveries to issue temporary Boating Safety Education Certificates, effective for the period of rental only, to operators of these boats if the boat livery and the operator comply with the requirements governing the rental of boats and the operation of boat liveries as defined in this chapter. The Executive Director will establish rules and guidelines for the issuance of temporary certificates.] Persons

born on or after January 1, 1982, who rent a boat powered by greater than 25 horsepower or any personal watercraft are exempt from possessing a Boating Safety Education Certificate when the livery operator verifies the renter has completed the required orientation/introduction to boating safety and conditions in accordance with the Executive Director's guidance established by § 117.3.

(b) A personal watercraft livery shall take measures to oversee the operation of rented personal watercraft **[by persons who possess only a temporary Boating Safety Education Certificate]**. These measures shall include one of the following:

(1) The designation of a specified **[, marked]** area of operation for rented personal watercraft **as delineated on a map carried onboard the boat.**

(2) The provision of qualified observers employed by the livery to directly observe the operation of rented personal watercraft **and provide immediate assistance in case of an incident or breach of terms of the rental agreement.**

No more than seven personal watercraft may be under the observation of a single observer at any one time. Qualified observers shall be at least 16 years of age, have at least 10 hours of experience operating personal watercraft and have successfully completed the requirements for a permanent Boating Safety Education Certificate. The permanent Boating Safety Education Certificate shall be in the observer's possession when performing duties under this paragraph.

(c) A personal watercraft livery may not lease, hire or rent a personal watercraft to or for use by a person who is 15 years of age or younger.

Briefer:

Laurel L. Anders, Senior Executive Advisor

Action:

BOAT RENTAL SAFETY ORIENTATION GUIDELINES

Boat rental businesses, also known as liveries, can be found at many state and county parks, along major rivers, water trails, and at some marinas, boat dealerships, and outdoor outfitters. Boat rental businesses provide introductory experiences for interested people to try boating without committing to the purchase and maintenance of boats and related equipment. Boat rental businesses also provide opportunities for experienced boaters to experiment with different types of boating or get on the water without transporting their own equipment to a new location. Some of these businesses provide unique boating opportunities like whitewater rafting. Because these businesses provide a wide variety of services to a broad diversity of people and are often a gateway to boat ownership, boat rental businesses play an important role in boating safety.

Pennsylvania law ([Title 30 Pa.C.S.A. § 5122\(a\)\(2\)](#)) authorizes the Pennsylvania Fish and Boat Commission (PFBC) to promulgate rules and regulations relating to boat rental business operators. PFBC regulations at [58 Pa. Code Chapter 117](#) specify rental boat business responsibilities include inspections, record keeping, required safety equipment, and accident reporting. These regulations also require rental boat businesses to provide an orientation/introduction to boating safety and conditions, as specified by the PFBC Executive Director.

This document provides specific guidance on the required boating safety and boat operations orientation to be provided by all boat rental businesses which must include:

- a review of state-specific laws and regulations applicable to the type of boat being rented,
- local conditions and known boating hazards on the waters on which the boat will be used,
- proper operations and handling characteristics of the rented boat, and
- the use of safety equipment such as life jackets, fire extinguishers and visual distress signals (if applicable).

MATERIALS

The following materials provide the minimum information to be covered in safety orientations. Boat rental businesses may use other materials, as appropriate, to supplement the required orientation.

1. PFBC posters containing Pennsylvania-specific regulations for all boat rental types are available as printer-friendly downloads at www.fishandboat.com:
 - Motorboat Poster
 - Personal Watercraft (PWC) Poster
 - Unpowered Boat Poster
 - Whitewater Safety Poster
2. Videos for motorboat rentals may be viewed on-demand at www.rentalboatsafety.com or <https://www.youtube.com/@RentalBoatSafetyTube/videos>. DVDs can be requested through the Rental Boat Safety website.
3. Spanish Speaking videos and resources can be found at <https://es.rentalboatsafety.com>

PROCEDURES

The following procedures shall be followed by boat rental businesses each time a boat is rented to any person for operation on Pennsylvania waters. These procedures may take up to thirty minutes to complete. Instruction may be provided in group settings.

Unpowered Boat Rental*

1. Use the PFBC's posters to review the laws, regulations and boating tips relating to the proper operation of unpowered boats with all individuals renting or using a boat.
2. Describe all known boating hazards on the waters where the renter will use the boat. Include such hazards as dams, bridge piers, shallow areas, swim areas, obstructions in the water (including strainers), rapids or whitewater areas, docks, piers, boating access areas, areas of heavy motorboat traffic, and other areas to exercise caution or avoid.
3. Provide all required safety equipment in accordance with the PFBC's regulations and explain its proper use.
4. Obtain a signed and dated acknowledgment of all individuals completing the orientation/introduction to boating safety and conditions as outlined in steps 1 through 3 above.
5. *Optional:* Show the relevant unpowered boat video at www.rentalboatsafety.com to orient renters to proper operations and boat handling.
6. *Optional:* Use the USCG/RentalBoatSafety paddling checklist to ensure important safety topics are covered with the renter.

*Unpowered boat rental businesses operating in Pennsylvania under an agreement with the National Park Service and in compliance with the Commercial Use Authorization (CUA) Safety Orientation Requirements meet the requirements outlined above.

Motorboat Rental

1. Use the PFBC's posters to review the laws, regulations and boating tips relating to the proper operation of motorboats with all individuals renting or using a boat.
2. Show the relevant powerboat video at www.rentalboatsafety.com.
3. Provide hands-on orientation of proper operations and boat handling specific to the boat being rented.
4. Identify the designated area of operation, if applicable.
5. Describe all known boating hazards on the waters where the renter will use the boat. Include such hazards as dams, bridge piers, shallow areas, swim areas, obstructions in the water, slow-no-wake areas, docks, piers, boating access areas, areas of heavy motorboat traffic, and other areas to exercise caution or avoid.
6. Provide all required safety equipment in accordance with the PFBC's regulations and explain its proper use.
7. Obtain a signed and dated acknowledgment of the renter's completion of the motorboat rental orientation/introduction to boating safety and conditions as outlined in steps 1 through 6 above.
8. *Optional:* Use the relevant USCG/RentalBoatSafety powerboat checklist to ensure important safety topics are covered with the renter.

Boat rental businesses are encouraged to require life jacket wear at all times on rental boats, even when not required by state or federal law.

Questions about the Boat Rental Safety Orientation Guidelines may be directed to:
Pennsylvania Fish and Boat Commission, Bureau of Boating, 717-705-7851, RA-FBBOATRENTAL@pa.gov