

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

**MINUTES FOR
THE BOATING ADVISORY BOARD MEETING**

**Thursday, December 7, 2017
10:00 a.m. Harrisburg,
Pennsylvania**

Members

Vice Chair Mary Gibson
Scott Ballantyne
Loren Lustig
John Mahn
Michael Murray

Members Ex Officio

John A. Arway, Executive Director
COL Corey L. Britcher, Secretary
Ryan Dysinger for Cindy Adams Dunn, Secretary for the
Department of Conservation and Natural Resources

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I. Roll Call

The meeting was called to order by Vice Chair Mary Gibson at 10:00 a.m. Members Loren Lustig, Michael Murray, Scott Ballantyne, and John Mahn were all present. Additionally Executive Director Arway and COL Corey Britcher were also present.

In addition to the members of the board, the following Commission staff were present: Commissioner Rocco Ali, Laurie Shepler, Chief Counsel; Wayne Melnich, Assistant Counsel; Tim Schaeffer, Director Policy and Planning; Rick Levis, Communications Chief; LTC Larry Furlong, Law Enforcement; Gail Burkholder, Administrative Officer Law Enforcement; Bernard Matscavage, Director of Administration; Brian Barner, Deputy Director for Administration; Andy Shiels, Director of Fisheries; John Shero, IT Director; CPT Thomas Burrell, Law Enforcement; Steven Kralik, Director of Outreach, Education and Marketing; and Ryan Walt, Boating and Watercraft Safety Manager Law Enforcement.

II. Introduction of Guests

Rob Miller, Governor's Sportsmen Advisory Council; Jake Gery, Senator Stefano's office; and Louise Lustig.

III. Approval of the February 23, 2017 Meeting Minutes

Motion made by Vice Chair Gibson and seconded by Member Lustig to approve the February 23, 2017 minutes. The motion carried.

IV. Election

Vice Chair Gibson opened the floor for nominations for Chair. A nomination was made by Vice Chair Gibson to elect Member Lustig for Chair. Hearing no other nominations, Vice Chair Gibson called for a motion to close nominations. A motion was made by Member Murry and seconded by Member Mahn to close nominations for Chair. The motion carried.

Chairman Lustig opened the floor for nominations for Vice Chair. A nomination was made by Member Ballantyne and seconded by Member Mahn to nominate Member Gibson for Vice Chair. Hearing no other nominations, Chair Lustig declared the nominations closed for Vice Chair and offered Vice Chair Gibson his congratulations.

At this point Colonel Corey Britcher asked that we stray from the agenda and allow Tim Schaeffer to give his Legislative Update because he had to leave early.

Legislative Update – Tim Schaeffer

Tim Schaeffer presented legislative updates to Title 30, Bill 1673. This bill if passed into law would align the BUI statute with the DUI statute in several areas. Additionally, a change allowing for issuance of a summary citations to low head dam owners that do not properly mark their dams and restitution for illegally dumped boats round out the bill.

Currently Senate Bill 30 which is a license bill to establish fees for fishing license and boat registration is sitting in the House of Representatives. It would give the PFBC the authority to set fees moving forward.

Bill 975 would give a therapeutic exemption from fishing license requirements, for groups like Wounded Warriors. It has passed in the House of Representatives and is currently waiting consideration in the Senate.

House Bill 544 is for recreational use of land and water. If someone hurts themselves on your property, they can't sue you.

Lastly, he covered merger legislation that has been introduced.

V. Public Comment

None made.

VI. Old Business

A. Review of Final Rulemaking from 2017

COL Britcher provided a summary of final rulemaking regarding Volvo Penta attending our last meeting asking us to look at the possibility of changing our regulations regarding wake surfing. After staff discussion and approval by the Commissioners, Section 105.3 (Unacceptable Boating Practices) was amended to accommodate this type of propulsion and will go into effect as soon as it appears in the Bulletin.

B. Summary of 2017 USCG Performance Report

Ryan Walt provided an overview of the Commission's performance report to the U.S. Coast Guard for October 1, 2016 through September 30, 2017 (the federal fiscal year). During this period, Pennsylvania reported 15 recreational boating fatalities. This equates to an average of approximately 12.3 fatalities per year over a ten-year period which is a slight increase. Eight of the 15 victims (53%) were not wearing a life jacket but did have them onboard the boat.

C. Boating Accident Analysis & Fatality Summary

From January 1 to December 31, 2017 there were 69 reportable boating accidents resulting in 51 injuries requiring medical treatment. The most common type of accident was Capsizing (23) followed closely by Collision with vessel (17) and Skier mishap (7). Property damage amounted to \$250,230 which was \$48,224 more than the amount reported in 2016. Two accidents comprised \$111,000 or 44% of that total. There were 15 recreational boating fatalities in the calendar year 2017. Only four of the 15 victims in 2017 were wearing a life jacket at the time of the mishap that resulted in death. Eight of the 15 victims (53%) were not wearing a life jacket but did have them onboard the boat.

VII. New Business

A. Addition of Chapter 99 (Capacity Plates)

Commentary:

Prior to January 1, 2013, the Commission issued capacity plates for certain boats that were operated or offered for sale within the Commonwealth. During an audit of the Commission's Recreational Boating Safety Program in 2011, the U.S. Coast Guard identified this practice as a violation of the Federal Regulation and directed the Commission to stop issuing the plates. In response to this direction, the Commission removed the entire chapter of its regulations pertaining to capacity plates. At the time, this decision was thought to be the best way to handle the issue. However, it has since been determined that perhaps the best change would have been to remove only those sections dealing with the Commission's issuance of capacity plates and not to remove other sections that extended the federal standard to Commonwealth waters. Staff examined what other states have done regarding capacity plates and are recommending that certain sections of the former regulation be reinstated.

Staff proposes that Chapter 99 be added as follows:

CHAPTER 99. CAPACITY PLATES

§ 99.1. Boats requiring capacity plates.

(a) A capacity plate shall be permanently affixed to a monohull boat less than 20 feet in length designed to carry two or more persons and to be propelled by machinery or oars as its principal source of power if one of the following applies:

(1) The boat is manufactured, transferred, sold or offered for sale in this Commonwealth.

(2) The boat is operated on waters of this Commonwealth.

(b) Pontoon boats, canoes, sailboats, kayaks, inflatable boats, hydroplanes, personal watercraft and boats considered by the Commission to be of unusual or unique design are exempt from this chapter.

(c) As used in this chapter, "manufacture" means to construct or assemble a boat or alter a boat in a manner that changes its weight carrying capacity.

§ 99.2. Information required.

The capacity plate shall contain the following information as described in 33 CFR § 183.25 (relating to display of markings):

(1) For boats designed for or represented by the manufacturer as being suitable for use with outboard motors:

(i) The total weight of persons, motor, gear, and other articles placed aboard which the boat is capable of carrying safely under normal conditions.

(ii) The recommended number of persons consistent with the weight capacity of the boat and the presumed weight in pounds of those persons. The presumed weight per person may not be less than 150 pounds.

(iii) The maximum horsepower of the motor that the boat is designed or intended to accommodate.

(2) For other boats to which the requirement applies:

(i) The total weight of persons, gear, and other articles placed aboard which the boat is capable of carrying safely under normal conditions.

(ii) The recommended number of persons consistent with the weight capacity of the boat and the presumed weight in pounds of those persons. The presumed weight per person may not be less than 150 pounds.

§ 99.3. Replacement plates.

If the manufacturer did not affix a plate, if a plate is damaged to the point of being not discernable, or if a plate is removed, the owner of the boat shall make application to the manufacturer or the United States Coast Guard for a replacement in accordance with 33 CFR Part 183, subpart B (relating to display of capacity information).

§ 99.4. Prohibited acts.

(a) A person may not tamper with or remove a capacity plate or any of the information shown.

(b) A person may not sell or otherwise transfer ownership of a boat subject to this chapter that does not comply with this chapter.

(c) A person may not operate a boat displaying an illegible capacity plate. Owners of these boats shall apply for a replacement plate as provided in § 99.3 (relating to replacement plates).

(d) A person may not operate a boat for which a capacity plate is required unless the boat displays the capacity plate.

(e) A manufacturer, dealer or other person may not offer a boat for sale for which a capacity plate is required unless a capacity plate is properly affixed.

Briefer:

Colonel Corey Britcher, Director, Bureau of Law Enforcement

Action:

Motion made by Member Ballantyne and seconded by Vice Chair Gibson to approve the amendment and move it to the Commission for consideration. Motion passed.

B. Amendment to Section 111.3 (Armstrong County).

Commentary:

Keystone Lake is a 1000-acre impoundment in Armstrong County that provides water to the Keystone Generation Station, Chief Keystone Power, LLC. The property is leased to the Commission for fishery and aquatic resource management and recreational fishing and boating purposes. Under a prior agreement, a horsepower restriction for motorboats was set at 10 horsepower. The Commission adopted this restriction in a regulation in section 111.3(b)

In March of 2017, the lease agreement for this property was renewed. As part of that renewal, Chief Keystone Power requested that the 10 horsepower restriction be raised to 20 horsepower.

Staff therefore propose that §111.3 be amended as follows:

§ 111.3 Armstrong County.

* * *

(b) *Keystone Lake*. The use of motors in excess of [~~10~~] 20 horsepower is prohibited.

Briefer:

Colonel Corey Britcher, Director, Bureau of Law Enforcement

Action:

Motion made by Member Ballantyne and seconded by Member Mahn to approve the amendment and move it to the Commission for consideration. Motion passed.

C. Amendment to Section 111.16 (Clarion County).

Commentary:

At the September 2017 Commission Meeting, Mr. Jeffrey Pfister approached the Commission on behalf of several landowners adjacent to Redbank Creek, Clarion County. The landowners are concerned for boating safety as the creek had been traditionally treated as a Slow No Wake (SNW) zone locally even without an official designation as such.

In recent years the amount of boating traffic entering Redbank Creek from Pool 9 on the Allegheny River has increased substantially. This traffic goes above SNW even where the creek narrows to less than 200 feet across, creating a safety hazard. The landowners have petitioned the Commission for Redbank Creek to be designated as a SNW zone.

Bureau of Law Enforcement staff from the Northwest Region were tasked with exploring the issue and to offer an opinion. Upon investigation, they determined that the creek does narrow and the entrance from the river quickly becomes congested with boats. The presence of an old railroad bridge also adds to the congestion as boats have to traverse under and between the bridge abutments to navigate safely.

Allegheny Land Trust, the owner of the bridge that is now part of a rail to trails, is concerned about the erosion damage to both the shore line and the bridge itself due to the excessive wake in a confined area. If the amendment is adopted, the Trust has agreed to allow signage to be posted on the bridge structure for the SNW zone.

Staff propose that §111.16 be amended as follows:

§111.16. Clarion County.

(a) *Clarion River.* * * *

(b) **Redbank Creek. Boats are limited to slow, no wake speed on the entire creek from its headwaters to its confluence with the Allegheny River.**

Briefer:

Colonel Corey Britcher, Director, Bureau of Law Enforcement

Action:

Motion made by Vice Chair Gibson and seconded by Member Murray to approve the amendment and move it to the Commission for consideration. Motion passed.

VIII. Discussion Items

A. Legislative Update – Tim Schaeffer

See updates starting on page 1.

B. Water Rescue Update – Ryan Walt

Swift Water's goal is to train first responders. Train and also inspect their equipment. PFBC's Swift Water course is the only FEMA approved swift water curriculum in the nation. Since 1984, 45,000 students have received certification.

HART – Helicopter Aquatic Rescue Training, is the partnership between PFBC, PEMA and PA Army National Guard. We do live hoist for their Medivac Crews. We are the lead agency in providing land and water training. We had our first rescue in November. It was a fallen hunter from a tree stand.

IX. Other Business

Member Gibson asked that the Boating Advisory Board Meeting be changed to December.

Executive Director John Arway showed a video promoting paddle sports.

X. Adjournment

Chairman Lustig called for a motion to adjourn the meeting. The motion was presented by Member Ballantyne and seconded by Member Gibson. The meeting adjourned at 12:10 PM.