

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

**MINUTES FOR
THE BOATING ADVISORY BOARD MEETING**

**Friday, July 31, 2015
10:00 a.m.
Harrisburg, Pennsylvania**

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**Laurel L. Anders
Director
Bureau of Boating and Outreach**

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

Members

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

Members Ex Officio

John A. Arway, Executive Director
Laurel L. Anders, Secretary
Ryan Dysinger for Cindy Adams-Dunn, Secretary for the
Department of Conservation and Natural Resources

TABLE OF CONTENTS

	Page No.
I. Roll Call	3
II. Introduction of Guests	3
III. Public Comment	3
IV. New Business	
A. Amendment to Section 53.8 (Boats).....	4
B. Amendment to Section 105.4 (Overloading and Improper Loading).....	5
C. Amendment to Section 111.40 (Luzerne County).....	6
V. Other Business.....	9
VI. Discussion Items.....	9
VII. Adjournment.....	9

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I. Roll Call

The meeting was called to order at 10:00 a.m. All members of the board were present except Andrew Talento. A quorum was present.

In addition to the members of the board, the following Commission staff were present: Andrew Shiels, Deputy Director for Field Operations; Colonel Corey Britcher, Director of Law Enforcement; Wayne Melnick, Assistant Counsel; Laurie Shepler, Chief Counsel; Eric Levis, Press Secretary; John Shero, Director of Information Technology; Tim Schaeffer, Director of Policy & Planning; Ted Walke, Communications Chief.

II. Introduction of Guests

Louise Lustig, guest.

III. Public Comment

John Arway addressed the board regarding a proposed reorganization of the Commission that would soon be presented to the Board of Commissioners for a vote. The reorganization would entail transferring the Boating Law Administrator role and boating education functions from the Bureau of Boating and Outreach to consolidate the entire boating program within the Bureau of Law Enforcement. In addition, the Marketing program would be merged with Outreach and Education to form a new bureau. Mr. Arway indicated the rationale for this reorganization is to consolidate operations and become more effective. The new structure would give boating issues a higher profile, allow for more staff support of the boating program in a larger bureau, and result in greater interface on boating education issues. Mr. Arway noted the reorganization was consistent with the wishes of the Board of Commissioners and would be effective upon approval of a notice of reorganization. After addressing the board with this message, Mr. Arway excused himself from the meeting due to illness.

Ms. Anders noted that prior to the meeting she received an e-mail from Board member Andrew Talento in regard to the agenda since he was not able to attend today's meeting. Ms. Anders read the following excerpt from Mr. Talento's email:

"Having read the agenda, I agree with the staff on the first two amendments. I think they are sound and can always be changed again if we see problems occur with them. As far as Lily Lake, I have no experience or knowledge so I refrain from making any comment on this issue."

IV. New Business

A. Amendment to Section 53.8 (Boats).

Commentary:

Earlier this year, the Commission was contacted by numerous boaters and an outfitter regarding its regulation at section 53.8 that prohibits the use of single-chambered inflatable boats on its lakes. The Department of Conservation and Natural Resources has a similar regulation that prohibits the use of these boats on state park lakes. These regulations were promulgated prior to the manufacture and widespread availability of high-quality, durable inflatable canoes, kayaks and stand-up paddleboards.

The use of other inflatable devices is addressed in other sections of Chapter 53 as well. Section 53.16(c) prohibits launching or retrieving swimming aids such as inner tubes from Commission-owned or –controlled access areas. Float tubes on Commission-owned or –controlled lakes are addressed in section 53.19. Specifically, they must have a secondary bladder for additional emergency flotation and the user must wear a Coast Guard approved personal flotation device.

Thirty-three states responded to a survey administered by the National Association of State Boating Law Administrators (NASBLA) regarding special regulations relating to the use of inflatable boats. One of the respondents indicated that single-chambered air-inflated devices do not meet that state’s definition of vessel. Another respondent indicated that single-chambered inflatable vessels are prohibited from use statewide. There were no other responses regarding special regulations for recreational use of single-chambered inflatable boats. Additionally, NASBLA does not have a model act regarding inflatable vessels. Therefore, states may deal with specific issues as they see fit.

A review of Pennsylvania’s recreational boating accident statistics reveals that there are no reportable accidents regarding loss of inflation for any incidents involving inflatable boats since 1985. With the recent advent of high-quality, durable inflatable boats with less than two separate buoyancy chambers, such as inflatable standup paddleboards, staff believe that the current regulation is overly restrictive and may be eliminated.

Staff propose the following amendment to §53.8:

§ 53.8. Boats.

* * *

(f) [Inflatable boats used on Commission lakes shall be at least 7 feet in length, made of durable reinforced fabric and have at least two separate buoyancy chambers exclusive of any inflatable floor or bottom.

(g)]

* * *

Briefer:

Laurel L. Anders, Director, Bureau of Boating and Outreach

Action:

Mr. Lustig made a motion to advance these amendments for the Commission’s consideration. Mr. LeMole seconded the motion. The board was polled and all were in favor. The motion carried.

B. Amendment to Section 105.4 (Overloading and Improper Loading).

Commentary:

Staff wish to clarify the Commission's regulations relating to overloading and improper loading by adopting language recommended by the National Association of State Boating Law Administrators Model Act for Maximum Loading and Horsepower Capacity Compliance. The model act prohibits the operation of certain recreational vessels when those vessels exceed their loading or powering capacities or exceed the capacity limits identified on the vessel's capacity label or through calculations presented in the Code of Federal Regulations.

Staff propose the following changes to §105.4:

§ 105.4. Overloading and improper loading.

(a) A person may not operate a boat when the boat is loaded with passengers or cargo beyond its safe carrying capacity[, **taking into consideration weather and other existing operating conditions**] **as determined by the boat's:**

(1) Maximum weight capacity; or

(2) Maximum persons capacity; or

(3) Maximum horsepower; or

(4) Capacity limits as identified on the boat's capacity label or through calculations provided by the U.S. Coast Guard through the Commission.

(b) A person may not operate a boat loaded in a manner that adversely affects its trim or stability, **taking into consideration weather and other existing operating conditions.**

Briefer:

Laurel L. Anders, Director, Bureau of Boating and Outreach

Action:

Ms. Gibson made a motion to advance these amendments for the Commission's consideration. Mr. LeMole seconded the motion. The board was polled and all were in favor. The motion carried

C. Amendment to Section 111.40 (Luzerne County).

Commentary:

Lily Lake is a 160-acre impoundment situated on a 376-acre parcel owned by the Commission in southeastern Luzerne County. The Commission acquired Lily Lake in 1968. When the Commission initially acquired Lily Lake, there was controversy over what uses of the lake should be allowed. Cottage owners insisted on water skiing and high-speed motorboat operation. Staff were opposed to high-powered motorboat activity on the lake primarily because of the size of the lake (approximately 90 acres of boatable water) and concern that allowing water skiing and internal combustion motors would create a safety hazard. The Lily Lake Property Owners' Association retained legal counsel and sent the Commission a letter on June 29, 1970 detailing its request for a 60 horsepower limitation and other proposals. However, before negotiations with the property owners concluded, the Commission adopted regulations at its May 3, 1971 meeting prohibiting internal combustion engines on Commission lakes. The minutes from that meeting state that "the regulations adopted for all wholly owned Fish Commission lakes [are to] be applied to Lily Lake." The property owners association again submitted a proposal in 1972 that they believed would allow for compatible, multiple uses of boats for fishing and other activities, including water skiing.

On April 6, 1973, the Commission's Executive Director provided a report on the situation to the Commissioners and referred the matter to the Boating Advisory Board (BAB) for study. On May 16, 1973, members of the BAB met with the property owners association to develop a consensus proposal. As a result, they mutually agreed to a high-speed operating zone where all ski operations would occur and that would be buoyed by the Commission. The high-speed operating zone was proposed as being 2,000 feet long and 650 feet wide and approximately 75 feet from the northern shore which was uninhabited.

In addition, the property owners association proposed a limit of 60 horsepower and maximum of 18 feet in length for all boats on the lake, as initially recommended by their attorney in 1970. The rationale provided at the time was "the 60 HP limitation will make it unattractive to the hard core water skier but would still permit the several cottage owners who own 60 HP boats now to continue to use them." Also expressed was a concern of attracting a large number of boats from outside the area, but it was believed that the horsepower limitation would minimize that.

During discussion of the consensus proposal at a BAB meeting on August 20, 1973, a Commissioner noted that the main reason for the Commission's allowing the use of only electric motors on its lakes was to "prevent noise and pollution." He further stated that since these elements were already present on Lily Lake when the Commission acquired it in 1968, this rationale had to be discounted at this lake.

The consensus proposal was advanced from the BAB to the Commission, and upon approval at its October 20, 1973 meeting, the Commission published a notice of proposed rulemaking on December 15, 1973 to prohibit the use of boats with greater than 60 horsepower engines or greater than 18 feet in length on Lily Lake. Additionally, boats were limited to slow, no wake speed except those operating within the buoyed high speed operating zone, between noon and sunset from the Saturday preceding Memorial Day to September 30. No public comments were received. The regulation went into effect upon publication in the *Pennsylvania Bulletin* on January 26, 1974.

The regulations for Lily Lake have seen minor amendments since 1973; however, there have been no changes to the horsepower or boat length limitations since their adoption. The current Permit to Install Floating Structures and Private Aids to Navigation indicates the high-speed zone as 1,500 feet by 600 feet, mid-lake along the opposite shoreline from the boat launch and homes.

The Commission maintains a surfaced launch ramp and parking at Lily Lake that can accommodate 18 vehicle-trailer combinations and more than 25 cars. To date, there are no reportable recreational boating accidents recorded for Lily Lake.

On May 18, 2015, Commission representatives met with members of the Lily Lake Property Owners' Association. The purpose of the meeting was to discuss a request from the property owners association to increase the maximum allowable horsepower to 90 and boat length to 25 feet.

The Commission owns four lakes with horsepower or speed restrictions and the Pennsylvania Department of Conservation and Natural Resources owns ten. A comparison of lake acreage to horsepower or mile-per-hour restrictions on these lakes indicates that Lily Lake is currently the second smallest lake but has the highest horsepower allowance. (See chart below.)

Pymantuning Reservoir	Crawford	DCNR	17,088	20 hp
Lake Arthur	Butler	DCNR	3,225	20 hp
Foster Joseph Sayers Lake	Centre	DCNR	1,730	45 mph
Lake Wilhelm	Mercer	DCNR	1,680	20 hp
Glendale Lake	Cambria	DCNR	1,635	20 hp
East Branch Clarion River Lake	Elk	DCNR	1,554	45 mph
Nockamixon Lake	Bucks	DCNR	1,450	20 hp
Lake Marburg	York	DCNR	1,275	20 hp
Beltzville Lake	Carbon	DCNR	949	45 mph
Yellow Creek Lake	Indiana	DCNR	720	20 hp
Harveys Lake	Luzerne	PFBC	658	45 mph
Lake Canadohta	Crawford	PFBC	169	10 hp
Lily Lake	Luzerne	PFBC	160	60 hp
Sugar Lake	Crawford	PFBC	90	6 hp

The Commission's local law enforcement staff recommend a change to allow boats up to 20 feet in length but that we maintain the horsepower limitation at 60 due to the small size of the impoundment. Boat registration records reveal that such an increase in length will potentially allow for an additional 1,672 actively registered motorboats in Luzerne

and the seven surrounding counties to operate on Lily Lake. It is predicted that the increased length allowance will enhance boating opportunities for the lake residents and northeast region without having a significant impact on user conflicts or safety on this small impoundment.

Staff propose the following amendments to §111.40:

§ 111.40. Luzerne County.

* * *

(c) *Lily Lake.*

(1) Boats with greater than 60 horsepower engines or greater than [18] 20 feet in length are prohibited.

(2) Boats are limited to slow, no wake speed except those operating within the buoyed high speed operating zone, between noon and sunset between the Saturday preceding Memorial Day and September 30.

* * *

Briefer:

Corey L. Britcher, Director of Law Enforcement

Action:

Mr. Lustig made a motion to advance these amendments for the Commission's consideration. Mr. LeMole seconded the motion. The board was polled and all were in favor. The motion carried

V. Other Business

Tim Schaeffer noted that Robb Miller has been appointed the new Governor's Advisor for Hunting, Fishing and Conservation. Mr. Miller has expressed interested in the Board's terms and

VI. Discussion Items

There were no discussion items.

VII. Adjournment

A motion to adjourn was made by Mr. LeMole and seconded by Mr. Lustig. All voted in favor. The motion carried and the meeting was adjourned at 11:05 a.m.

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