

**New Jersey Boat Regulation Commission Meeting
October 25, 2023
Liberty State Park Central Railroad of New Jersey Terminal Building
1 Audrey Zapp Drive
Jersey City, NJ 07305**

I. ROLL CALL

Acting Chairperson Ed Harrison Jr.
Leonard Mangiaracina
Bruce Strigh
Roland Gehweiler Jr.
Shaun Blick
Christopher Wozniak

STAFF

DAG Vivek Mehta
Sergeant Karen Fahy

Office of the Attorney General
NJSP, Marine Services Bureau

PLEDGE OF ALLEGIANCE

II. SUNSHINE LAW ANNOUNCEMENT (OPEN PUBLIC MEETINGS LAW)

The meeting was called to order at 10:10 AM by Acting Chairperson Ed Harrison Jr., at which time he also announced that this meeting is being held in compliance with the provisions of Chapter 231, Public Law 1975, known as the Open Public Meetings Act. Notice of this meeting was filed with the Secretary of State, various news media outlets via the New Jersey State Police Office of Public Information, the New Jersey State Police website, and posting at State Police Headquarters, West Trenton, NJ.

III. MINUTES OF SEPTEMBER 2023 MEETING

Minutes from the September 13, 2023, Boat Regulation Commission Meeting were approved by Shaun Blick and the motion was seconded by Leonard Mangiaracina.

IV. UNFINISHED BUSINESS

- **Vessel Transactions and the Motor Vehicle Commission (12:7-34.45 Change of address of owner; status of vessel // 13:82-8.11 Notification required)**

Acting Chairperson Ed Harrison Jr. asked Sergeant Karen Fahy about the status of the New Jersey Motor Vehicle Commission's capability to document vessel transactions. She advised she had been in communication with an assigned liaison from the New Jersey Motor Vehicle Commission. She also requested DAG Vivek Mehta to develop communications with the NJMVC DAG. Currently there is no update.

- **Further Considerations for Mechanically Propelled Personal Hydrofoils (EFOILS) and Mechanically Propelled / Motorized Surfboards (JETBOARDS)**

Acting Chairperson Ed Harrison Jr. addressed other safety considerations to be made in reference to discussions on the regulation of the mechanically propelled personal hydrofoils and motorized jetboards. Sergeant Karen Fahy stated during the September meeting additional safety issues, including multi-rider concerns, were addressed. She advised she had corresponded with a representative from Lift eFoils, in addition to a distributor for DLE engines, a China based jetboard company. Sergeant Fahy was advised both the eFoil and the jetboard are primarily a one-person device, due to difficulty balancing a second person on the device. Multiple riders would limit buoyancy and power. Ultimately Sergeant Karen Fahy deduced there would be no need for restriction on multi-riders due to the information garnered. Further discussion with Sergeant Karen Fahy on injury type and prevalence revealed most injuries are minor scrapes and bruises. Reference eFoils, the most severe injuries have been related to people putting fingers and toes into the propeller and getting caught in the safety guard. The representative from Lift eFoil Company explained the company has about 15,000 eFoil units on the market and has had about 20 reported injuries. The distributor for the jetboard company, DLE conveyed most injuries are related to beginners' first learning.

Acting Chairperson Ed Harrison Jr. mentioned that hydrofoils and jetboards really need to fall under the PWC regulations to clarify and implement the needed regulations. Sergeant Karen Fahy indicated a justification for an amended definition for "personal watercraft" defined was already submitted to the NJSP Research and Legislation Unit for review.

Roland Gehweiler reiterated, from the last meeting, the importance of a lifejacket requirement. And Acting Chairperson Ed Harrison Jr. reintroduced the need for a smaller numbering exemption on these devices. He clarified these regulations could be implemented once the legal definition of PWC is amended to include these devices.

V. **NEW BUSINESS**

- **BRC@njsp.gov Email Communications Inbox Report**

Sergeant Karen Fahy provided an update regarding the Commission's email inbox and advised it was negative for relevant comments or questions for the Commission.

- **Recreational Vessel defined in 13:82**

Acting Chairperson Ed Harrison Jr. inquired if there was a need for a definition of a recreational vessel in 13:82. Sergeant Karen Fahy highlighted the possible need for a legal definition of a “recreational vessel” in the 13:82 regulation as a result of multiple inquiries regarding the type of vessel to which the new 13:82-1.4(f) Mandatory cold weather PFD regulation applied. Additionally, the MSB Boating safety and education office was fielding inquiries about what constitutes a recreational vessel. She explained some of the inquiries came from the DEP, DOT, State Colleges, and commercial watermen. She said there may be a need for this to alleviate some uncertainty about to whom the regulation applies.

Sergeant Karen Fahy further explained the definition of a recreational vessel as defined in 20 C.F.R. 701.501, meaning a vessel being manufactured or operated primarily for pleasure; or leased, rented, or chartered to another for the latter's pleasure but excludes "passenger vessels" and "small passenger vessels" as defined by 46 U.S.C. 2101 (22) and (35) and excludes vessels used solely for competition. A vessel will be deemed recreational if it is a public vessel, i.e., a vessel owned or bareboat-chartered and operated by the United States, or by a State or political subdivision thereof, at the time of repair, dismantling for repair, or dismantling, provided that such vessel shares elements of design and construction with traditional recreational vessels and is not normally engaged in a military, commercial or traditionally commercial undertaking. She explained this is an abbreviated version of the C.F.R. which is lengthy in its entirety.

Sergeant Karen Fahy explained many inquiries were from the DEP Fish and Wildlife Bureau of Law Enforcement, reference commercial fishermen operating small vessels, and occupants of research and survey vessels, and there were looking for clarity on what constituted a recreational vessel. The definition of a “commercial vessel” as per 13:82-1.4(e) means any vessel longer than 65 feet operated for a purpose that requires a United States Coast Guard Operator’s or Master’s License.

Sergeant Karen Fahy asked the Commission to consider the intent for the Mandatory cold weather PFD wear. Was it to A.) include, or exclude, regulation on commercial vessels under 26’, or B.) to include and regulate any vessel under 26’. Additionally, there may be a need to A.) define “recreational vessel” to be consistent with any applicable CFR, or B.) remove “recreational” from 13:82-1.4, to alleviate any uncertainty to who the new regulation applies.

Acting Chairperson Ed Harrison Jr. stated we may want to go with option B in both cases, to regulate any vessel under “26 feet and to remove the term “recreational” from 13:82-1.4. He then questioned if removing the term “recreational” would present a problem.

DAG Vivek Mehta stated that we just need to clarify the language the Commission would like to use in the regulation. He advised he did not think it would be a problem. He further stated, the DAG’s and the State Police can come up with appropriate legal jargon then present it to the Commission.

Shaun Blick stated he did not believe that painting a broad brush on commercial vessels would be necessary when it may hinder their operation. Acting Chairperson Ed Harrison Jr. declared they are out on the water more than anyone and more susceptible than anyone. Shaun Blick countered with the fact they are out there more and would be safer. Bruce Strigh commented that if the commercial fishermen knew better, they would be wearing a PFD, especially because they are more susceptible to wave action and issues on the water. He added that he would consider any boat 26 feet and under to apply. Shaun Blick suggested the PFD could get in the way of operations, and added the pull cord could deploy if caught in the gear.

Roland Gehweiler Jr. asked if the sailing community is required to wear a PFD during the winter months. Sergeant Karen Fahy read 13:82-1.4(f): No owner or operator of a recreational vessel less than 26 feet, including rowboats, canoes, kayaks, and stand-up paddleboards shall permit its operation between November 1st and May 1st, unless each person on board such vessel is wearing a securely fastened United States Coast Guard-approved wearable personal floatation device of an appropriate size while such vessel is underway. A person inside the cabin of a cabin vessel shall be exempt from this requirement. She followed with, sailboats under 26” are to adhere to the regulation.

Acting Chairperson Ed Harrison Jr. asked what the process would be to make any amendments to the statute. DAG Vivek Mehta advised the DAG’s and the State Police would follow the rule making process, and the current regulation would stay in place, until a formal change can be implemented.

Christopher Wozniak advised he was dissecting the 13:82-1.4(d) exemptions. Shaun Blick pointed out the live version of 13:82-1.4(d) includes an exemption for 13:82-1.4 (b) and now an exemption for 13:82-1.4 (f). Shaun Blick clarified the exemption read as (d) 2.: Vessels owned or operated by the State of New Jersey or an agency thereof, a county, a municipality, a volunteer first aid, rescue or emergency squad, a search and rescue unit established within a fire district created pursuant to N.J.S.A. 40A:14–70 or a volunteer fire company created pursuant to N.J.S.A. 40A:14–70.1 when a child is on board as a direct result of being rescued from an emergency situation. Shaun Blick added if you’re going to apply the regulation to all vessels, you will need to remove subsection (d)3, (e) and the word “recreational” and replace with “any.” DAG Vivik Mehta highlighted the definition of a commercial vessel for this subsection and stated it should not conflict. Shaun Blick retorted that it would not conflict if we took out the definition out of commercial vessel, (d)3. DAG Vivek Mehta reminded everyone we were not dealing with vessels over 26 feet, so the definition of a commercial vessel could stay in the subsection.

Acting Chairperson Ed Harrison Jr stated the Commission could make a motion to amend the regulation to include and regulate any vessel under 26 feet, and then to remove the term “recreational” from the statute and replace the term with “any.” Christopher Wozniak inquired if we should still create a definition for the term recreational vessel under 13:82. Acting Chairperson Ed Harrison Jr asked if the definition for recreational vessel should comply with the C.F.R. Sergeant Karen Fahy replied in the affirmative.

Acting Chairperson Ed Harrison Jr. suggested splitting the motion. He made a motion to include and regulate any vessel under 26’. Bruce seconded the motion. All Commission members except Shaun Blick responded in favor. Shaun Blick advised he will abstain from the motion. Acting Chairperson Ed Harrison Jr. reiterated the second motion to remove recreational and replace the term with “any.” Bruce Strigh made a motion remove recreational and replace the term with “any.” Leonard Mangiaracina seconded the motion. All Commission members responded in favor.

Acting Chairperson Ed Harrison Jr. inquired if we had a definition for recreational vessel. Sergeant Karen Fahy responded we only have one through the CFR which is lengthy and involved. Acting Chairperson Ed Harrison Jr. advised we should have one in the boating regulation. Bruce Strigh inquired if we can leave the definition vague, as in a vessel that is used for pleasure, and everything else is a commercial vessel.

Acting Chairperson Ed Harrison Jr. could not think of any vessel under 26 feet that was not manufactured for commercial use, as it relates to the CFR. He suggested the best option is to apply the regulation to any vessel under 26 feet. He added for now we just need to take the word “recreational” out of the regulation and replace with “any,” then later we can define “recreational.” Shaun Blick said this may need more thought and a definition should be established. Christopher Wozniak stated we have a definition for a commercial vessel and a ferry. He addressed the scope of the regulation to preserve life during a time that not many boats are on the water. He continued with the importance of ensuring you float and can be found. He added it is a fair regulation for the general safety of the public. The Commission agreed that safety was the intent. Christopher Wozniak declared that for now we can tell the public if you are crabber or clammer you are required to wear PFD. Acting Chairperson Ed Harrison Jr. advised the next meeting we should have a definition that we can look at for recreational vessel.

- **Justification submitted for amended definition of PWC under 12:7-62**

Acting Chairperson Ed Harrison Jr. inquired about the status of an amendment for the definition of a PWC under 12:7-62. Sergeant Karen Fahy stated a justification was submitted to the office of research and legislation, then forwarded to office of legislative services. She added that sponsorship will be needed to move forward. DAG Vivek Mehta stated his office

will do the legal review, but it will take time. He said new regulations can't go forward before May 1st, so it is unlikely any changes will go into effect before the 2024 boating season.

VI. PUBLIC COMMENT

Mellisa Danko of the Marine Trades Association of New Jersey requested a clarification of the two motions that were made. Sergeant Karen Fahy explained one motion was made to include all vessels under 26feet to be regulated by the cold weather PFD regulation. The second motion was made to remove "recreational" from the regulation and replace the term with "any." Melisa Danko further advised there were multiple complaints by fishermen coming through the association regarding insufficient timing of the advent of the mandatory cold weather PFD regulation. She added there were also complaints about the discrepancy in the size of vessel as it applies to the regulation from New York at 21 feet, as opposed to 26 feet in New Jersey.

VII. EXPRESSION OF APPRECIATION

Acting Chairperson Ed Harrison Jr. expressed his appreciation to the providers of the facility and to the staff for the accommodations for the meeting.

VIII. AGENDA FOR THE NEXT MEETING

The agenda for the next meeting will be posted publicly on the New Jersey State Police website and at State Police Headquarters, West Trenton, NJ.

IX. DATE, TIME AND LOCATION OF THE NEXT MEETING

The next Boat Regulation Commission meeting is posted publicly on the New Jersey State Police website, www.njsp.org, under Public Information, Marine Services, New Jersey Boat Regulation Commission Annual Schedule of Meetings. The meeting is scheduled for 10:00AM, Wednesday, January 10, 2024, at the Battleship New Jersey, Officers' Wardroom, 100 Clinton Street, Camden, NJ 08103.

X. ADJOURNMENT

Roland Gehweiler Jr. moved to adjourn the meeting; Leonard Mangiaracina seconded the motion. The meeting was adjourned at 11:29AM.

NOTICE TO ALL BRC MEMBERS: IF ANY BRC MEMBER IS UNABLE TO ATTEND THE MEETING, PLEASE NOTIFY SGT. KAREN FAHY AT Karen.Fahy@njsp.gov OR (609) 882-2000, EXT. 6174.