

COMMISSION TO EXAMINE THE EFFECTS OF WAKE BOATS IN THE STATE OF NEW HAMPSHIRE, (HB 137, Chapter 77:1, Laws of 2019) Room 305, LOB

Monday, January 6, 2020 10 AM in LOB 305

Minutes

- I. Call to order:
 - a. The Chair, Representative Smith, called the meeting to order at 10 AM.

- II. Introductions:
 - a. **Members present:** Winston Sims, Pamela Price, Maggie Ford, Shane Carey, John Walley, Scott Behner, Chris Bishoff, Sarah Kirn, Captain Dunleavy, Representative Gunski, Senator Ward, Representative Smith, Kelly Buchanan, Peter MacCallum
 - b. **Members absent:** David Mankus
 - c. **Guests:** Dann Lewis (Lake Ossipee), Bill Winter (Lake Ossipee), Adam Schmidt (WSIA), Representative Mann (Lake Warren), Deborah Vanderbeek (Campground Owners Association), David Neils (NHDES), Keith Mayotte

- III. Approval of the minutes from 12/9/19:
 - a. Pam noted additions and corrections, including:
 - i. Under section III: According to Pam’s notes, water acidity, temperature, and boat cleanliness are also factors in the spread of AIS.
 - ii. III. c. v. – According to Pam’s notes, NH saw 5-10 new infestations a year.
 - iii. III. c. xix. – According to Pam’s notes, other factors such as watershed drainage can impact this also.
 - b. Senator Ward made a motion to approve the minutes as added to and corrected. Captain Dunleavy seconded. The minutes were unanimously approved.

- IV. Presentation from Peter MacCallum: *Please reference the presentation PDF document “Ballast Presentation HB137” on the commission’s website (linked below).

- a. Ballast is traditionally used in transatlantic commercial shipping. Zebra mussels arrived in the US via this transmission. It only takes one microscopic organism in a droplet of water to start an infestation.
- b. Ballast is any weight added to a boat. Examples include: concrete, water, steel, etc.
- c. Many different recreational boats employ the use of ballast systems, including: center console jet, inboard v-drive, reversing stern drive runabout/bowrider, and deckboat/fishing.
- d. The 2 most popular ballast types are:
 1. Soft sided portable bags
 2. Hard fixed tanks
- e. Ballast tanks are located:
 1. Port and starboard
 2. “Belly” or bow area
 3. Representative Smith asked: are the intake and outtake on the outside of the watercraft? Peter replied it depends on the manufacturer. Some use one pump for in and out. Some use one pump for in and another for out. Peter confirmed these are not accessible to the boater while the boat is submerged.
- f. In NH in 2020, we have 19 manufacturers of ballast watercraft represented by 11 authorized dealers.
- g. Captain Dunleavy asked: Where did Peter source his boat sales (warranty registrations) in NH data from? Peter replied from Boat Intelligence Statistical Surveys in Michigan. Captain expressed he thinks this data might be very low based on his experience. Peter clarified this data is for NEW sales only (not used).
 1. Shane asked: Do manufacturers have caps on production? Peter replied backlogs are only due to consumer demands.
 2. John asked: Is this data for boats sold only to NH residents or to anyone that buys a boat in NH? Peter replied the warranty must be sent to a person’s place of residence. This could create gray area in the presented data.

- h. Peter conducted a non-scientific survey of other dealers and found that wake boats sold in NH travel from lake to lake 3.33% of the time.
- i. Peter showed an example of an inspection of in Utah. A pontoon boat had zebra mussels stuck between metal of outboard engine.
- j. Maggie stated that many states utilize quarantine periods to reduce risk.
- k. Peter expressed Lake Tahoe is at the forefront of AIS prevention and the use of clean, drain and dry tactics. On wake boats, they use hot water to flush the ballast systems for 5 to 10 minutes to decontaminate. All boats are tagged/sealed to prove they have been fully inspected. Any tagged boat may re-enter without re-inspection.
- l. Peter suggests NH should follow current laws, raise awareness, consider decontamination and inspection processes for post-use, and to look at what other states do. NH should also consider adding “ballast care and maintenance” to boater education to increase awareness.
- m. Peter stated there are new technologies on the horizon to prevent AIS. Some are listed in his presentation.
- n. Winston stated dry is NOT a part of our AIS prevention law. Peter stated that was new information to him. Representative Smith stated was it was because it would be difficult to enforce. David Neils stated dry is mentioned in the RSA. Captain Dunleavy stated there is no penalty for failing to dry.
- o. Shane asked if Lake Hosts encourage people to dry. Kelly responded yes. Shane also asked if people often buy aftermarket ballast (bags purchased separately or rudimentary fixes like buckets full of bricks). Peter replied yes, oftentimes. Kelly stated she would send the commission the feasibility study funded by NHDES to examine AIS prevention programs across the country.
- p. Senator Ward stated the filter from the demo ballast bag has large holes and asked if there are smaller hole filters. Peter stated there is one aftermarket option – Mussel Master – that has a much better filter. Peter stated very few clients opt to buy this. It costs \$1,000 and slows the function of filling and draining by a quotient of 10.

- q. Pam asked: How long have the aftermarket bags been around? Peter stated he would need to look it up, but maybe 15 years.
 - r. Captain Dunleavy clarified that the reciprocity of boat registration strictly limits what Marine Patrol can customize in their boater guide. Space limitations restrict what each agency gets to add.
 - s. Peter stated the most interesting way to learn is video. He suggested we ask a local reporter to speak about AIS in a video and educational tool. It could be funded by the industry in-part. Captain stated “Good news, we’re already there”. Boater education classroom videos are getting re-done with more AIS info. Amy has vetted the final version. Peter asked: does it have a ballast tank shown on video? Captain Dunleavy stated it talks about it, but doesn’t believe the video shows one.
- V. Presentation from Captain Dunleavy:
- a. NH does not recognize or differently define a ballast boat. This makes collecting statistics difficult. It requires Marine Patrol to rely only on what they’re hearing instead of collecting formal data.
 - b. Marine Patrol often struggles with aftermarket ballast systems because they are not appropriate for some watercraft due to weight capacity limits and safety of the passengers/operator. Some ballasts are not strapped down (safety hazard). Some surf behind outboard boats with homemade or aftermarket ballast (safety hazard) and these are often transient. Marine Patrol is concerned with whether or not aftermarket bags should be allowed to be used on any watercraft. Marine Patrol has not seen injuries, but they have seen carbon monoxide poisoning issues. Marine Patrol is getting calls regarding erosion concerns/loud music/inconsiderate boating behaviors, but they do not have data to definitively say it is always a ballast boat causing the problem.
 - c. John asked: are engine noise decibel limits connected to stereos? Captain responded, no.
 - d. Representative Smith asked if aftermarket ballast systems are regulated anywhere. John replied if the boat sinks with aftermarket, it can void the insurance policy. This can be a deterrent to people.

- e. Pam asked Captain Dunleavy if complaints have increased generally. Captain stated yes, especially with safe passage, but Marine Patrol can't link it to specific boats. People on small lakes have a tendency to point these ballast or wake type boats out based on activities taking place behind them. Pam also asked about congestion of lakes. When are the biggest congestion problems? Captain replied after 3 PM on Friday to Sunday evening. Mondays are also busy because a new crop of renters arrives on large lakes. From 4th of July to Labor Day weekend is the busiest time of the year. Captain explained problems can happen at any time.
- f. John asked if there are a lot of rental boat issues. Captain stated the temporary 14 day certificates and rentals are linked to very few problems.
- g. Winston asked if Marine Patrol employs AIS prevention tactics. Captain replied smaller lakes receive transient officers and their boats. Officers are required to log prevention actions and utilize a Lake Host if available (unless responding to an emergency). Officers receive annual training with Amy Smagula. Officers also carry a list of infested waterbodies.
- h. Representative Smith inquired regarding the 150 FT setback for safe passage. Does Marine Patrol get a lot of complaints regarding this provision (or, no wake zones)? Yes. Most 150 FT complaints are boat to boat passage, but some with narrow passage areas due to geography create regular complaints. Folks can petition to create a no wake zone to help solve this. Most people do this. Safe passage does not apply to aids to navigation, ledges, rocks, or reefs. It does apply to floats, docks, swim lines, moorings/mooring fields, etc.. Officers are trained to recognize 150 FT to shore. Boat operators are not always held to the same standard and are not generally expected to recognize that responsibility to the full degree in court. Headway speed is much easier to identify. Marine Patrol uses lasers to measure distance and in certain areas green buoys note 150 FT.
- i. Chris stated the wake responsibility campaign is important to WSIA to help with behavior issues.

VI. Discuss the date of our next meetings:

- a. Monday, February 3rd at 10 AM

- i. We will discuss the definition of a wake boat (see Representative Smith's handout) and any other proposed business before the commission.
 - b. Monday, March 2nd at 10 AM
 - i. Presentation from WSIA on erosion and waves.
- VII. Scott inquired if the commission will have public testimony. Representative Smith stated it is unlikely. Our charge is to collect data and research. Folks are welcome to come and attend meetings as members of the public. The commission should work together to gather knowledge and represent our constituencies.
- VIII. Input from guests:
 - a. Keith Mayotte asked what the number of boats traveling from lake to lake is – about 3.3% of wake boats.
 - b. Captain asked if the survey Peter did was speculation. Peter replied, no, the buyer takes a survey to state what they're doing with the boat.
 - c. Captain Dunleavy asked if there was interest in seeking an extension to gather data during the summer of 2020. What data would the commission like to collect?
- IX. Adjourn:
 - a. Pam made a motion to adjourn. Senator Ward seconded the motion. The meeting adjourned unanimously at noon.