

Mark  
Johnston

**Charlene Dindo**

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**From:** Mark Johnston <mdjvet579@gmail.com>  
**Sent:** Tuesday, February 13, 2024 4:41 PM  
**To:** David Weeks  
**Cc:** Charlene Dindo  
**Subject:** [External] LCAR wake boat meetings

[External]

Dear Senator Weeks,

I have watched the two LCAR meetings on the last two Thursday mornings that you have attended. I'm disappointed that you haven't seemed to be more engaged in the Responsible Wakes for Vermont Lakes (RWVL) efforts to get in place wake boat regulations for the coming summer. I'm hoping that this Thursday morning you will be able to support their efforts. There are many weaknesses in the ANR's proposals however we feel some regulation is better than none. Please also support our efforts to have the ANR clarify that wake boat surfing is not a "normal" use on our Vermont lakes.

I hope you have shared previous emails on this topic with your fellow LCAR members? The lack of regulation of wake boat usage would have negative impacts on so many levels. Would you please share any questions or reservations you might have in the enacting of wake boat regulations? We feel like we are running very short on time for getting rules in place for this boating season.

Thank you,  
Dr Mark D Johnston  
and Nancy A Johnston

Sent from my iPhone

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Rodney  
Putnam

TO: Members of the Legislative Committee on Administrative Rules

FROM: Rodney Putnam (Lake Iroquois); Eric Splatt (Lake Bomoseen); Brent Tewksbury (Lake Groton); Adam Martin (Lake Groton), Eric Dutil (Lake Bomoseen); Mike Riva (Lake Dunmore)

DATE: February 14, 2024

RE: Proposed Language Additions to ANR Final Rule from Responsible Wakes for Vermont Lakes

We write to respectfully request that the Legislative Committee on Administrative Rules reject the proposed definitions changes relating to “wakeboat” and “normal use” made by Responsible Wakes for Vermont Lakes at the LCAR meeting of February 8. We have been involved with the entire rulemaking process from day one, attended all of the public hearings, submitted written comments to ANR, and some of us attended the LCAR hearing of February 1<sup>st</sup>, 2024. While we certainly are not happy with the rule and would have preferred a much more robust conversation among all of the interested parties before the petition was even filed, we respect the process that took place and will abide by the final rule as proposed.

To have the petitioners come in and request last-minute definitions changes flies in the face of the very long public input process that took place. Please adopt the ANR rule as it originally came before your Committee.

Thank you for your consideration,

*Rodney*  
*Eric*  
*Brent*  
*Adam*  
*Eric*  
*Mike*

This rule protects a brand new water sport practiced by a few at the expense of 1000s who paddle swim, fish and ski.

This reengineering of the unanimous DEC proposal will do more harm than good. Granted it will protect a bunch of our small ponds and lakes, but it leaves the large majority of Vermont's inland pond/lake acreage vulnerable to an inadequate, flawed and unenforceable rule.

A few of the issues:

1 This rule allows wake boat on our ponds and lakes where jet skis are prohibited. What reason could there be? There isnt one. Arbitrary and irrational.

2 This rule, deviously in my view, adds a "normal use" definition for wake boats. Why? The only conceivable reason is to facilitate ANRs plan to deny the petitions to ban that are being formed by many lake organizations as we speak.

3 And most importantly, this rule sets an inadequate 500' setback from shorelines, (an arbitrary reduction of the DEC unanimous recommendation of 600'), BUT only 200' from swimmers, paddlers, anglers and skiers. NO ONE in their right mind could say that an ocean sized wave generated 200' from your grandchild in a kayak is safe. The safety of the tens of thousands of us who paddle, ski, swim, fish is completely ignored with this. It's not just arbitrary and irrational, its dangerous and irresponsible.

What should you do? This rule should be denied (ANR will probably implement it anyway) and legislation started to limit WB to lakes larger than 2000 acres. This will allow ample open water

space for WB to enjoy their activity (Champlain, Memphramagog, CT River lakes and Bomoseen) and at the same time protect the rights of the thousands of us truly “normal users” ,, And even add a provision allowing lake organization with majority votes to petition ANR to allow wake boats .. real democracy ). This is a rule that favors the very few over the many. It’s poorly conceived. I would not want my fingerprints on this.

Chip Stone

East Montpelier

Phil Dodd

Hello, my name is Phil Dodd. I do not own lakefront property, but I do swim, kayak and sail on Vermont's inland lakes.

I agree with the 82.5% of the people who spoke at DEC's hearings on this rule: wake boats and the abnormally large waves they generate are bad for our Vermont lakes and require regulation greater than the proposed 500-foot rule (the 82.5% figure comes from the Sept. 18, 2023 DEC staff memo from Oliver Pierson, Lakes and Ponds Program Manager, DEC and Katelyn Ellermann, Associate General Counsel, ANR recommending 600 feet, which was for some reason rejected).

In my view, the committee should object to the proposed rule and request that the Agency amend it because it meets two of the criteria in 10 VSA §842 for objecting to a rule: the proposed rule is contrary to the intent of the Legislature, and the proposed rule is arbitrary.

First, let me address the intent issue. A different section of Title 10, §1421, provides policy guidance for the Use of Public Water Rules. It says that the rules should promote safety, and later states that, among other things, "The purpose of the rules shall be to further the maintenance of safe and healthful conditions."

Huge rogue waves are potentially dangerous for many lake users, including swimmers, paddlers, and fisherman. Despite many people raising safety issues and the fact safety was mentioned in the petition, the Agency never really addressed these concerns. This is contrary to the intent of the Legislature as expressed in statute, and provides one basis for objecting to the rule.

The second problem with the proposed rule turns on whether wake boats are a "normal use," which is defined in the Public Waters rules as "any lawful use of any specific body of public water that occurred on a regular, frequent, and consistent basis prior to January 1, 1993."

Wake boats definitely do not meet this definition. Considering wake boats to be a normal use would not make sense to a reasonable person, and is thus arbitrary according to the A.P.A. and should be objected to. The Agency has gone back and forth on this issue and now seems to saying they are agnostic on it, but I believe it should be considering all petitions to see how they fit within the Public Use rules, including the normal use definition.

If wake boats are not a normal use, then the conflicts they cause should be managed in a way that the normal uses existing in 1993 can be enjoyed “to the greatest extent possible,” as required by UPW Rule 2.6 (a).

In fact, in Responsiveness Summary Response #25, the Agency acknowledges that it has the power to prohibit anything that does not qualify as a normal use when necessary to adequately protect a normal use, and I believe it should be doing so in this case by resolving this use conflict in favor of longstanding traditional activities.

The paddleboard example presented at the last meeting is irrelevant. True, paddleboards may not be a normal use under the UPW, but they are not creating any use conflicts, and so do not require regulation. By contrast, wake boats are a non-normal use that are creating tremendous conflicts, and therefore the UPW requires that they be regulated to protect traditional uses “to the greatest extent possible.”

Please send this rule back to address public safety, establish that wake boats are not a normal use, and consider whether a ban or stricter regulation is necessary to protect truly normal uses.

Phil Dodd  
Montpelier, VT  
philipkdodd@gmail.com

**Charlene Dindo**

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**From:** Gene White, Jr. <genewhitejr@gmail.com>  
**Sent:** Friday, February 9, 2024 10:56 AM  
**To:** Charlene Dindo  
**Cc:** Moore, Julie; Dlugolecki, Laura; Mark MacDonald; Trevor Squirrel; Christopher Bray; Virginia Lyons; Seth Bongartz; Mark Higley; Carol Ode  
**Subject:** [External] Re: wake boat rules

[External]

Oops - sorry... I hit send too soon. Here is what Julie Moore said:

"As you noted in your letter to LCAR, Vermont law enforcement is stretched. That said, assuming the rule approved by LCAR next week, enforcement of the wakeboat rules will be added to the range of activities that law enforcement will seek to ensure compliance around during the summer recreation season.

Specifically, the DEC team has been coordinating closely the Warden Service, which is also part of the Agency of Natural Resources and works closely with Vermont State Police to ensure and enforce recreational boater safety requirements, on compliance activities for the first summer. These will include ensuring wakeboats are only operated in wake sports mode within defined wakesports zones on the 30 allowed waterbodies.

To be clear, I am not suggesting that there will be full-time patrols on the lakes where wakeboats are proposed to be allowed to operate but rather this will be part of our recreational boater safety efforts with particular attention paid, at least initially, to those lakes that have had wake boat activity in the past that are not on the list of 30 allowed waterbodies."

On Fri, Feb 9, 2024 at 10:55 AM Gene White, Jr. <genewhitejr@gmail.com> wrote:

To Whom it May Concern: I have now heard back from Julie Moore at ANR. Below are the salient points of her response pertaining to my concerns regarding enforcement of whatever ends up being the new wake boating rules. Common sense indicates that my concerns about enforcement of the new rule(s) are founded. For the benefit of those of us who use our lakes respectfully, without damaging fragile ecosystems, and without infringing upon the general tranquility, please advocate for a 1000-foot-from-shore rule for wake boats. Thank you for your attention. Sincerely,

Gene White Jr  
Essex Jct, VT

On Thu, Feb 8, 2024 at 2:31 PM Gene White, Jr. <genewhitejr@gmail.com> wrote:

To All Persons Addressed Here:

I am of the strongly held opinion that wake boats and wake boating should be prohibited on Vermont waterways. Being as that is an unlikely position for the State to take, despite it having the overwhelming support of all but those few people who indulge in it, I hope that you on the Administrative Rules Committee will at very least agree that a 1000-foot distance from shore rule is a reasonable compromise. The 500-foot rule is insufficient for many reasons that have been publicly stated by persons who know the subject. As far as I know, there is no benefit that flows from wake boats and wake boating, except to those few people who practice it, to the detriment of (1) the environment, and (2)

the great majority of people who practice far less negatively impactful modes of water recreation (kayaking, sailing, swimming, diving, and even normal motorboating).

I am awaiting a response from Julie Moore at ANR to this two-part question: Regardless of what rule(s) are eventually promulgated pertaining to wake boating, (1) what entity or agency is responsible for enforcing the rule(s), i.e., to whom would a citizen report a transgression, and (2) are there going to be any funds or resources dedicated to the enforcement of wake boating rules?

Those questions go to another concern of mine -- and an argument for the 1000-foot distance-from-shore rule; Given the current state of understaffing in all law enforcement agencies in Vermont, I believe it is safe to suppose the distance-from-shore rule will be largely ignored if for no other reason than it will not be enforced. State police, sheriffs, and local police departments are overworked and understaffed -- they can hardly be expected to take on yet another enforcement role. It's naive to think that practitioners of wake boating will actually abide by the rules if it displeases them. And they'll get away with it, in all likelihood.

For the sake of our waterways and those of us who utilize them reasonably, please prohibit wake boating, or...at very least, choose the 1000-foot rule, which effectively reduces the number of waterways where wake boats can be used. There are so few wake boaters and so many of the rest of us. This is not an "us or them" issue -- this is a common sense question of what's best for the environment and the greater good. Thank you for your consideration. Sincerely,

Gene White Jr  
Essex Jct, VT  
802.316.6031

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