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Use of Public Waters Rules

Testimony to the Legislative Committee on Administrative Rulemaking

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The Federation of Vermont Lakes and Ponds is a statewide coalition of 52 lake associations and individual lake stewards. From its inception in 1972, FOVLAP has remained dedicated to fostering environmental quality standards and preserving Vermont lakes, ponds, watersheds, and aquatic ecosystems through education, outreach, and advocacy.

The rules before you today contain far more than just regulations concerning wake sports. The Agency of Natural Resources staff have done exemplary work in reviewing and overhauling the rules, streamlining them and providing some much-needed clarity. The lengthy pre-rulemaking and formal rulemaking processes undertaken by the Agency have been careful, thoughtful, and fully transparent, with many public meetings, ample time for submission of written comments, and outreach by the staff to various stakeholders for additional information and clarification.

In addition, considerable work has been done by the original petitioners, Responsible Wakes for Vermont Lakes represented here by Meg Handler, and also by the Federation to educate the public and to help develop rules that will better protect the state's fragile aquatic ecosystems while ensuring that all can enjoy Vermont's lakes safely.

The Federation supports the rules that are before you today, even while recognizing that no rule is perfect. The sections of these rules regarding wake sports address a number of the deficiencies in the current rules that were implemented in 2024, including increasing the buffer between boats engaged in wake sports and other lake users to 500 feet and mandating that wake sports take place only on the largest of the inland lakes.

At the same time, we recognize and continue to be concerned that by protecting the smaller lakes from the damage incurred by wake sports, these changes could cause more wake boats to be concentrated on the remaining inland lakes, many of which are our cleanest and most pristine lakes, thereby exposing those lakes to the possibility of invasives being carried in via wake boat ballast tanks as well as damaging those aquatic ecosystems.

*To preserve and protect Vermont's lakes, ponds, and their watersheds
for the benefit of this and future generations.*

We note that then DEC Commissioner Batchelder testified before this committee in 2024 that wake sports do not meet the definition of the normal uses of the public waters that the Agency is required to accommodate. Normal use is defined 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 sports clearly do not meet this definition.

Although a non-normal use, the Agency has worked hard to try to balance the demand by a small minority of boaters to engage in a non-normal activity with the need to protect these fragile aquatic ecosystems from damage and invasives as well ensuring that the vast majority of lake users can enjoy the use of the state's public waters safely.

We have questioned a process that allows non-normal uses to take place on the state's waters without requiring those wishing to engage in such activities to prove that such an activity will not damage aquatic habitat, cause increased phosphorus or pollutants to enter the water, contribute to shoreline erosion or lake bottom disruption, have the potential to spread aquatic invasives, or endanger other lake users.

Nevertheless, these rules will help to further provide for the safety of other lake users and to some extent protect aquatic ecosystems, while allowing wake sports to continue. Therefore, we urge you to approve the rules as presented and to order them to be implemented immediately. The process to get to this point has been lengthy and inclusive. The rules fully comply with statute and are not in any way arbitrary.

The boating season will officially begin in two weeks, although some intrepid boaters have already been out on the water. Therefore it is vitally important that we have rules in place as soon as possible so that there is time to inform the public and especially boaters and lake users.

Meanwhile, our members will continue to work hard to prevent the spread of aquatic invasives, to educate boaters and the general public about best practices to protect the waters, and to work with the legislature and the Agency of Natural Resources to develop policies and rules that will ensure the health of Vermont's lakes and ponds now and into the future.