Lindsey Schreier

From: austins wharf <austinswharf@yahoo.com>
Sent: Tuesday, May 12, 2026 9:37 PM
To: Lindsey Schreier
Subject: [External] 25-P045-Vermont Use of Public Water Rules

[External]

Please distribute to the entire LCAR Committee.

Dear ANR/ Lakes & Ponds Program Staff,

Thank you for the opportunity to submit public comment on the proposed 2025 wakeboat rule amendments. After reviewing the proposed changes, the rulemaking documents, the submitted petitions, and the public comments supporting additional restrictions, I respectfully submit the following.

I oppose the proposed additions of:

the **100-acre lake threshold**

the **3,000-foot straight-run requirement**

the expanded interpretation of a **500-foot buffer from "any object" within the wakezone**

Normal Use Definition

Section 3.7 and 4.3 for management project municipalities

and I support maintaining the **2024 rule as written**, including the existing shoreline and dock buffer framework.

In reviewing the materials cited by those requesting further restrictions, the primary scientific sources referenced are research from the University of Minnesota and work conducted at the St. Anthony Falls Laboratory. These studies examine boat-generated wake characteristics such as wave height, energy, and how wakes attenuate with distance.

However, the way these scientific findings are being translated into the proposed regulatory thresholds introduces important differences between what the science evaluates and how the rule uses those numbers.

500-Foot Buffer From "Any Object"

The Minnesota research evaluates how wakes diminish over distance, particularly in relation to **shorelines, docks, and other vessels**. The studies focus on wake attenuation, energy dissipation, and the role of depth and distance from shore.

The proposed rule expands this into a requirement that wakeboats remain 500 feet from "any object," which functionally creates a wide operational exclusion zone around a vessel. The research cited does not define "object," does not analyze swimmers, buoys, or wildlife markers as variables, and does not recommend a 360-degree exclusion zone within a wakesports area.

The science describes attenuation relative to shorelines and boats. The "any object" interpretation represents a policy expansion beyond the study context.

3,000-Foot Straight-Run Requirement

The 3,000-foot figure appears in discussions as a typical wakesports ride length — a description of boating practice, not an environmental response metric. Wake science evaluates wave energy, propagation, depth, and distance from shore. It does not evaluate ecological impact relative to how long a boat travels in a straight line.

No study links sediment movement, erosion, or habitat effects to uninterrupted run length. The dimension is used in spatial visualization and operational descriptions, not as a hydrodynamic or ecological threshold.

100-Acre Lake Requirement

The 100-acre figure is derived from geometric modeling of space needed for a modeled run length and wake width. Wake research identifies environmental impact drivers as distance from shore, wave energy, water depth, and frequency of exposure. Lake surface area itself does not alter how a wake is generated or how it attenuates.

The Minnesota studies do not include acreage as a tested variable and do not identify a lake-size threshold at which environmental impacts change.

The argument being presented to Vermont Agency of Natural Resources and DEC — including by Federation of Vermont Lakes and Ponds — asserts that wakesports should be classified as a "non-normal use" under Vermont's Public Waters framework because modern wakeboats, in their current form, did not exist prior to January 1, 1993.

This interpretation mischaracterizes both the activity at issue and the intent of the statute.

The relevant use is **towed watersports conducted by inboard motorboats**, an activity that clearly predates 1993. Prior to that date:

- Towboats, ski boats, and inboard vessels designed to generate wake for recreational towing sports were in widespread use
- Ballast modification and wake-enhancement practices existed
- Wakesurfing emerged as a sport in the late 1980s–1990s
- Recreational towing sports behind inboard boats were an established category of boating activity

The statute does **not** state that technological evolution within an existing recreational activity creates a new legal "use." Regulatory interpretation consistently recognizes

that **improvements in equipment within a longstanding activity category do not convert that activity into a legally distinct use**. The purpose of the "normal use" concept was to prevent *novel or incompatible uses*, not to freeze boating technology at 1993 levels.

New equipment does not equal a new use when the underlying activity category is longstanding. Wakesurfing is a technological evolution of traditional inboard towed watersports, not a separate category of water use.

I respectfully request that language characterizing wakesportsas "non-normal use" be removed. Historical documentation, industry history, and the evolution of watersports demonstrate that this activity falls within pre-1993 recreational boating practices. No scientific or legal analysis has been presented to establish otherwise; the classification appears to stem from public request rather than statutory interpretation.

E. Section 3.7 Wakesports & Section 4.3 Temporary Use Restrictions

I oppose the proposed amendments to **Section 3.7 Wakesports**and the associated administrative structure allowing the Secretary to add or remove wakesports-eligible lakes from a maintained list based on changing conditions, lake management activities, or research considerations.

As described in the Summary of Proposed Changes (Dec. 17, 2025), this shifts lake eligibility from fixed rule criteria to **ongoing administrative discretion**, creating a de facto pathway to long-term or permanent exclusion through rotating "projects," rather than through formal rulemaking.

This concern is amplified by **Section 4.3 Temporary Use Restrictions**, which authorizes restrictions for public safety, emergencies, or "other good cause." The phrase "other good cause" is undefined and lacks objective standards. When combined with project-based removal authority under Section 3.7, this creates an open-ended mechanism to suspend a lawful recreational use without procedural guardrails.

As written, the rule contains:

- No built-in time limit on project-based suspensions
- No requirement for re-approval through formal rulemaking
- No defined proof threshold demonstrating direct project conflict
- No statewide consistency check to prevent uneven application

Without these safeguards, temporary suspensions could function as **permanent exclusions**, even absent ongoing, demonstrated conflict. This moves the framework away from science-based regulation of use and toward discretionary removal of access.

This structure conflicts with the UPW framework requiring that use conflicts be managed using the **least restrictive approach practicable**. Indefinite or recurring administrative exclusions are not the least restrictive option and effectively convert temporary management tools into permanent prohibitions.

If temporary suspensions are to be allowed for legitimate lake management, restoration, or research, the rule must include objective limits. I request the rule require that any suspension:

Be based on documented, project-specific necessity showing direct interference

Be limited to the smallest geographic and temporal scope necessary

Not exceed one boating season (or 6 months) without formal rulemaking review

Not recur within 48 months except for natural emergency events

Include written scientific findings by the Secretary

Automatically expire unless renewed through public rulemaking

These safeguards do not prevent environmental management. They ensure that temporary measures remain temporary, that decisions are science-based and transparent, and that public water access is not incrementally removed through administrative processes outside formal rulemaking.

For these reasons, I oppose the rule as written and request revision.

There is no scientific evidence, and specifically no Vermont Research to reference in the exact environment to support any of these increased regulations.

The cited wake research explains how waves behave relative to **distance, depth, and energy**. The proposed rules convert shoreline attenuation science, boating practice, and geometric modeling into fixed regulatory thresholds. None of the three proposed metrics are directly derived from studies measuring environmental impact at those specific values.

In May 2024, **ANR stated that the current wakeboatrule was science-based and reflective of Vermonters' shared interests.**

The additional 2025 proposals move beyond the scope of the cited research and apply operational or geometric figures as environmental limits without corresponding field-measured impact data., therefore outside of your own comment of science-based and of Vermonter's shared interests.

For these facts, I respectfully request that ANR retain the 2024 rule structure and avoid adopting the proposed 100-acre, 3,000-foot, and expanded "any object" buffer provisions.

Thank you for your consideration.

Sincerely,

Robert W. Pearo, Jr.

Scientific References

University of Minnesota — St. Anthony Falls Laboratory
Research on wake wave characteristics, energy, and attenuation relative to distance and depth
https://cse.umn.edu/safl/news/umn-researchers-study-waves-created-recreational-boats

Marr et al., Characterization of Boat-Generated Wake Waves (2022)
Wave height, energy, and attenuation study
https://coalitionnavigation.ca/wp-content/uploads/2025/09/BoatGeneratedWakeWaveReport_Feb12022_Final.pdf

Lake Waramaug Task Force — Shallow Water Environment Wave Impact Study (2024)
Wave energy propagation and shoreline distance findings
https://static1.squarespace.com/static/5852df852e69cfa768783fd0/t/6791117b64c0e95b7061fb1b/1737560444987/LWTaskForce%2BShallow%2BWater%2BEnvironment%2BWave%2BImpact%2BStudy%2BFinal%2BReport%2B010825.pdf

Daeger et al., Impacts on Nutrient and Sediment Resuspension by Various Watercraft
Depth-dependent sediment disturbance findings
https://lakes.grace.edu/wp-content/uploads/2023/04/Impacts-on-Nutrient-and-Sediment-Resuspension-by-Various-Watercraft-Proceedings-of-the-Indiana-Academy-of-Science-2023.pdf

Goudey & Girod — Characterization of Wake-Sport Wakes and Their Potential Impact on Shorelines (2015)Goudey, C. A., & Girod, L. G.https://www.wsia.net/wp-content/uploads/2020/03/WSIA_draft_report_Rev_II.pdf?utm_source=chatgpt.com

MacFarlane — Wake Characteristics from Recreational and Wake Boats (2025)

MacFarlane, G. J. (2025) https://mymlsa.org/wp-content/uploads/2025/04/wake-macfarlane-2025-wakesurfing-wakeboarding-and-waterskiing-a-comparison-of-wake.pdf

** please note the university of Minnesota and Marrr Et Al were presented and referenced through public comments and petitions by those requesting additional restrictions.