

Dated August 9, 2024

BEFORE THE DEPARTMENT OF FISH, WILDLIFE & PARKS COMMISSION OF THE STATE OF MONTANA

In the matter of the adoption and) RULE MAKING PETITION
amendment of rules pertaining to the)
operation of surfboat and wakeboard)
boats on Swan Lake, Montana,)
Pursuant to Title 23, Chapter 2, Part 5

TO: All Concerned Persons

1. Petitioner's name and address is "Sharing Swan Lake", a group of property owners on Swan Lake, listed on "Exhibit "A" to this RULE MAKING PETITION ("Petition"), and may be contacted at the following address: P.O.Box 1032 Bigfork, Montana 59911

2. In recent years there has been an exponential increase in the number of wakeboard and surfboat (collectively "Surf Boats") operating on Swan Lake ("Lake") that has reached the level that they are now affecting the Lake's environment, safety and legendary serene character.

Surf Boats now create huge artificial waves that erode shorelines, undercut the footing of trees and damage docks, boats and wildlife habitat. The surf waves roll across the Lake and create a danger to traditional boats that have to go to a virtual "full stop" when they encounter a freshly minted Surf Wave.

Some Surf Boat operators are negligent and plow up the Lake ignoring the course of other watercraft, forcing them to deviate or stop. There are operators who disregard existing Regulations that prohibit water sports after sunset and pull surfers as late as 11:30 p.m. with a variety of bright lights while broadcasting loud, vulgar and offensive music that echos to both shores. They also cruise back and forth up sections of the lake, which is also prohibited in the Regulations.

Although Petitioners have advised these Surf Boat operators that the forgoing activities are not permitted this advice is ignored and the violations continue. In one instance the Surf Boat has no registration numbers and the name of the operator cannot be obtained.

Surf Boats with their enclosed ballast tanks create problems in inspecting the craft to prevent the importation of invasive species.

The advent of Surf Boats is making big waves and big controversy on lakes across the nation and new regulations and amendments are now necessary. News articles reporting on the growing controversy and referencing studies to address the effect of Surf Boat waves are attached as "Exhibit B". This Petition has been written to incorporate the recommendations of these studies in the proposed amendments and new regulation.

The reason for this request to the Commissioners of the Department of Fish, Wildlife & Parks is to request that the Commission adopt and amend existing rules to adapt to the exponential growth of Surf Boats on Swan Lake.

ADOPTION:

As proposed the rules to be amended, adopted and promulgated provide as follows:

AMENDMENTS:

The rules as proposed to be amended would provide as follows, new matter underlined:

**Water skis and surfboards MAC 23-2-529
Water Skiing and using other Towed Devices. Page 2, 2024 Boating
Laws**

(Second bullet point)

Water Skiing, wake boarding, wake surfing, and towed recreation is not allowed between sunset (when the sun's disk has passed the horizon) and sunrise (civil twilight).

(Fifth Bullet point)

Boaters are to be courteous, minimize repetitive passes on any one portion of shoreline, stay well away from shoreline and docks, and keep music at the lesser of reasonable levels or 75 decibels during daylight; and after sunset to broadcast no music or sounds. Sound echos across the water of lakes and boats, including Surf Boats, are not to broadcast music with lyrics, that the general public, in accordance with the the standards employed by media, do not broadcast because they may be considered as offensive or vulgar.

Page 2, 2024 Boating Laws, Operation of Surf and Wake Board Boats

Adoption:

Adopt a new Regulation titled: Operation of Surf and Wake Board Boats

Dated August 9, 2024

This Regulation governs the use of Surf Boats on Swan lake, a narrow natural lake known for its serene waters and natural environment, where many property owners have had their quiet and peaceful enjoyment of the lake destroyed by the advent of Surf Boats and their operators who flagrantly violate these Regulations. This Regulation is intended to establish enforceable rules to provide a balance for competing uses on Swan lake.

Permitted Zones for Operation of Surf Boats

Zones have been established creating areas that Operators of Surf Boats cannot use the apparatus of Surf Boats to create an artificial wake larger than the wakes created by traditional watercraft. The Boating Laws are hereby amended to authorize Game Wardens, as law enforcement officers, to investigate, write citations, arrest violators, and refer violations to the county attorney in the county where they occur for enforcement. Violations committed by Surf Boat Operators and Owners, that are subject to prosecution include, but are not limited to: (i) broadcasting loud music that echos across the lake at night usually in conjunction with water sports, (ii) violating the sunset law for the cessation of water sports, (iii) making repetitive passes back and forth along sections of shoreline, (iv) creating large wakes damaging docks, boats and shoreline, including trees, (v), refusal to indentify themselves, (vi) the use of unregistered boats, and (vii) negligent operation of a Surf Boat by plowing down the lake ignoring the Rules of the Road and forcing other boats to change course.

Boating Laws, Permitted Zones where large wakes may be created

Operators may only use the apparatus of Surf Boats to generate large waves for water sports, which include wake surfing, In the following areas:

(a) Surf Boats may operate on the west side of the south end of Swan Lake starting at the point on Highway 83 where there is a scenic pullout and milemarker 73, and extending at a right angle directly across the Lake to end on the west shore.

(b) For areas north of mile marker 73, Surf Boats may operate only on the one half of the Lake that is the west side of the Lake, and that has not been developed; provided, if development exists on both sides of the Lake, then Surf Boats may only operate in the middle of Swan Lake; provided, that this middle course for Surf Boat operation shall not extend any closer to either shore than 750 feet. The term “development” means property on the lake shore that is private land with houses, construction or improvements on the land. This segment of the permitted area is the area on the west one half of the Lake that has no development.

Page 3, 2024 Montana Boating laws, Negligence Operation Owner’s Civil Liability MAC 23-2-505

Operating a vessel in a manner which may endanger the personal health or damage the property of any person is considered negligent operation. A boat’s owner is liable

for any injury or damage resulting from negligent operation, including a cause of action for recovery of monetary damages for damage to a property owner's docks, boats, and/or shoreline caused by wakes created by the offending vessel.

**Page 5, 2024 Montana Boating Laws,
Noise Limitations MAC 23-2-523
Noise Limitations MAC 23-2-526**

Engine and exhaust noise from Motorboats, including Surf Boats, and PWC may not emit noise in excess of 86 decibels measured at a distance of 50 feet or more. At idle speed, exhaust noise may not be in excess of 90 decibels measured one meter or more from the exhaust system. More restrictive noise standards are in affect for Flathead Lake (Flathead and Lake Counties), Echo Lake (Flathead County) and Swan Lake (Lake County) because of population density and heavy recreational use. On these waterways, a person may not operate a motorboat, Surf Boats or PWC in proximity to the shoreline if the noise emitted is greater than 75 decibels measured at shoreline in accordance with the shoreline sound measurement procedure. The decibel limits also apply to music being played on water craft, and violations to said Regulations. shall all be presumed to be a public nuisance and and constitute disorderly conduct. Certain exceptions are made for state-sanctioned regattas or boat races and by special permit.

**Page 7, 2024 Boating Laws, Enforcement
MAC 23-2-506**

Authorized officers of Montana Fish, Wildlife & Parks (FWP) have peace officer status for enforcement of these boating regulations. Sheriffs, peace officers, and U.S. Coast Guard law enforcement officers also have authority to enforce these violations. In order to enforce the laws of this state all of the forgoing officers, including FWP wardens are authorized to stop, inspect vessels, issue citations and if necessary arrest violators, and forward violations for prosecution to the county attorney for the county where the violation occurs

Adoption

**Page 43, 2024 Montana Boating laws, Definitions
MAC 23-2-502 Definitions**

(10) "Surf Boats" - this term includes wake board boats, and a reference to Surf Boats herein is a reference to both Surf Boats and Wake Board boats, and any craft that is designed to create a large artificial wake for water sports.

Petitioner requests an oral presentation to the Commissioners at the Community Center of the village of Swan Lake for expression of

Dated August 9, 2024

Petitioners' and other interested individuals experience and reasons for requesting the adoption of these Amendments and new Regulations described herein..

WHEREFORE, Petitioners requests that the Department of Fish, Wildlife & Parks adopt the proposed Amendments and promulgate the new regulations proposed herein..

Petitioners:

**Sharing Swan Lake,
a coalition of Property Owners**

On behalf of Sharing Swan Lake

by:

Don Smith,, as a Member of the Coalition

August 9 , 2024

Exhibit A

Sharing Swan Lake, a coalition of property owners

Steering committee

Robert Paul Coffman.

Tom Wolgamot

William Casey Boswell

Monte Eliason

Doug Harwood

Don Smith

Andrea Niehuis

Dave and JoAnne Ford

Pam Chute

Updated as of 8 7 2024

Exhibit B

News Articles on Surf Boats

Out Door Magazine June 20, 2024

CONSERVATION WILDLIFE MANAGEMENT By Christine Peterson
The Wake Surfing Problem: Big Waves and Big Controversy Are Coming to a Lake Near You

In the Midwest where there are countless lakes of all sizes, massive wake boats and the waves they create are causing potential habitat damage and new regulations

By Christine Peterson

Posted On Jun 20, 2024 5:25 PM EDT

8 Minute Read



Wake boats run at slow speeds and generate large waves. Patrick Orton via Getty Images

The growing popularity of wake surfing is making waves of its own, splitting lake associations and pitting neighbors against each other as some lake country residents call for bans and states from Minnesota to Vermont to South Carolina consider, pass, and shoot down new regulations.

“Wake boats are probably the single biggest divisive issue to lakes, and that’s not good,” says Joe Shneider, president of the Minnesota Coalition of Lake Associations. “You have a lake place, and you want to think of this wonderful existence, whatever that is in your mind, [but]

you're ticked off at your neighbor because they either do or don't support wake surfing.

“It's almost like the politics of today. You don't see how it's going to end.”

Lake users from bass fishermen to kayakers say the waves created by these slow-moving and massive wake boats make for **dangerous conditions on lakes**. They say the power created **stirs up lake bottoms** pulling nutrients into the water column aiding harmful algal blooms. And a recent study out of the University of Minnesota shows that some of these concerns may have merit.

Understanding Wake Surfing and Wake Boats

Wake boats are popular all over the country. In the West you'll see them running around massive reservoirs with rocky shorelines. But wake surfing is the most controversial in the Midwest, where there are innumerable lakes of all sizes.

A wake surfer rides waves made by a large boat often with its ballast filled with up to 3,000 or even 5,000 pounds of water sucked up from the lake. The boat runs relatively slowly, about 11 mph, to create 2- to 3-foot waves. A new top-end wake boat can cost as much as a half-million dollars.

The surfers do tricks, flipping their boards around and catching air like pros off the coast of southern California. **Only the waves aren't rising and crashing like they do in the Pacific Ocean, they're rolling on and on.** As riders keep surfing down the lake, the waves also keep rolling, too, where people say they **smash into docks and shorelines, eroding delicate ecosystems and knocking fishermen out of their boats.**

Wake surfers like Jason Lybeck counter that the sport is a family-friendly, safe way to get people on the water. Concerns about docks and shorelines are overblown, proponents say, the result of only a few irresponsible boat owners.

The Wake Boat Problem

A video by the Milwaukee Journal Sentinel that's viewed thousands of times on YouTube shows a section of lake bottom in Wisconsin's Big Cedar Lake in 2014 (before wake boats became popular). Plants sway in the current and fish dart back and forth. Almost a decade later, in 2023, little remains but sediment, the plants and other aquatic life were scoured from the bottom. Boats with heavy ballasts force water down to make waves, blasting river and lake bottoms in areas that aren't deep enough. As sediment fills

water columns, it adds more nutrients to the lake and can create harmful algal blooms.

The Michigan Department of Natural Resources released a report in July 2023 reviewing literature about wake boats or potential environmental impacts of wake boats. The report describes wake boats as “an **emerging threat to natural resources in inland lakes,**” citing **concerns about resuspending lake bottom sediment and the “dramatic increase in risk for transporting Dreissenid mussels and other aquatic invasive species.”**

“The cumulative negative effects of wake boats on natural resources has the potential to lead to **loss of habitat, resulting in the decline of aquatic ecosystems and angling opportunity,**” the report states.

Shneider says damage from constant waves against shorelines also motivates homeowners to reinforce edges with riprap or even seawalls. Those changes further damage plant and animal life that thrive in the buffer between water and land and degrade lake quality.

However, according to Michigan's DNR report: "These concerns can be mitigated by operating farther from shore to allow waves to dissipate before reaching shore, operating in deeper water to prevent bottom scour and resuspension of sediments, and disinfecting ballast tanks."

The Wake Boat Study

The University of Minnesota's St. Anthony Falls Laboratory is where scientists, engineers, and researchers solve problems with water. So it made sense that panicked cabin and boat owners would turn to a university in lake country to see what the science says about wake boat waves.

The lab, in turn, went to the public to crowd source its funding for the project. It raised more than \$100,000 from hundreds of people in a few months, says Andy Riesgraf, the project's lead researcher. The project has two phases, and researchers recently completed the first one. Results aren't damning for wake boats, but they also aren't great.

The study analyzed the difference in wave size, strength and power between boats used for water skiing, tubing and general recreation against boats used while wake

surfing. Typical operation for most common boats at higher speeds — roughly 20 mph — lifts the boats higher on the water creating smaller waves. Wake boats, on the other hand, are heavy and typically fill their ballasts with water, sinking them farther into the water. They are designed to create the biggest waves ideal for surfing.

But those waves, the study showed, end up being two to three times larger, with six to nine times more energy and six to 12 times more power than those from other boats operated at their quicker speeds.

All of this means that **it takes a wave from a wake boat about 500 feet to become the same size as a wave from a non-wake boat at 200 feet.** In other words, if lake rules say recreational boats need to stay about 200 feet from shore at high speeds, wake boats should stay more than 500 feet.

The study also showed that how a boat operates matters. Wake boats with full ballasts are particularly good at producing big waves, but non-wakesurf boats can also produce bigger waves if modified with after-market wake-altering technology like wake shapers or wake wedges that pull a boat's stern into the water.

“It’s not that we’re for or against [wake surfing], it’s that we need data,” Riesgraf says. “It’s a clear issue because we hear about it daily, and our goal is to provide unbiased research. Lake associations or state legislatures can then take our data and report and make their decisions on what they feel is best going forward.”

A Rise in Regulations

The findings are now circulating, being used in places like Vermont and Wisconsin to justify new regulations.

In 2022, Oregon banned wake surfing altogether in a popular stretch of the Willamette River. Two years later, Vermont passed some of the strictest wake boat rules yet, containing wake boats to designated wake boat zones on most waters. Those zones are at least 500 feet from shore, more than 20 feet deep and more than 200 feet wide. The state also **requires any boat be decontaminated when moving between waters to try and prevent spreading invasive species.**

Both **Michigan and Wisconsin killed bills** that aimed to pass broad wake surfing regulations. And **South Carolina passed a law in 2021 backed by the wake boating**

industry that restricts wake boats to more than 200 feet from docks, a person in the water, or an anchored boat.

Shneider and many others finally convinced **Minnesota lawmakers to pass a bill requiring nearly all boaters take an education class and receive a boater education card, which will at least regulate who can drive the boats and what they need to know before turning the key.** It will go into effect in 2025. Now Shneider and others are working on establishing best practices, like how to use a wake boat responsibly. The **Minnesota DNR approved wake boat restrictions recently on Caribou Lake,** the first individual lake in Minnesota to see such restrictions publicized. The rules mandate boats stay in at least 20 feet of water and stay 500 feet from shorelines.

The Backlash

Unsurprisingly, many in the wake boat community dispute the results of the University of Minnesota study, pointing instead to a separate study backed by the boating industry that shows wake boats only need to be 200 feet from shore and in 10 feet of water to prevent ecological damage.

Jeremy Whalberg, who grew one of the biggest wake surfing contests in the Midwest, blames the controversy on a lack of education. Bans aren't necessary, he says and likely won't work.

“People spend a lot of money on these boats, \$200,000 to \$500,000. When you spend that much money on a boat, you expect to use it, and they are pissing off a lot of people,” Whalberg says. “It will take some time for dust to settle, and states that do ban them will get blowback.”

Meanwhile, **wakesurfing is only becoming more popular. The \$100 billion industry could grow by another \$50 billion by the end of 2030, driven by an increase in disposable income and interest in water sports.**

For Lybeck, all the fuss comes down to personal responsibility.

“I think a lot of those people are talking about emotions and not talking about science-based facts,” he says. “But I also couldn't agree more that people do dumb things.”

That's why when Lybeck sells someone a boat, he takes the new owner out into the lake and explains not just how

the \$200,000 to \$300,000 machine works, but also how to use it without causing trouble.

Wake boat drivers need to be in water deeper than 20 feet — to create the best waves and to minimize habitat damage — and they need to stay away from other boats. They also shouldn't make wild turns. Drivers should start at one end and motor at 11 to 12 mph in a straight line to the other end where they power down, turn, and make a return trip on the same line. If a surfer falls down, the boat shouldn't whip around, creating erratic waves peeling off in every direction. They should, again, power down and turn back to help.

But the problem, Lybeck and Whalberg say, is a combination of some sellers who either don't understand what they're offering or aren't willing to provide the necessary tutorial, and some buyers who either aren't aware or don't care about the repercussions. They've both noticed that **some wake boat owners let their kids take out the boats without enough instruction.**

"I've had to chastise some of my customers' kids because they're doing stupid stuff and I've lost customers because of it, but I take it very seriously," Lybeck says. "I don't want to see more regulations."

The Future



Wake surfing is only going to become more popular in the near future.
Thomas M Barwick INC via Getty Images

The controversy over where, how, and when wake surfing is allowed has become so polarized that Shneider thinks some states will likely never pass regulations. In many places, it will be up to local governments to pass regulations (or not).

Meanwhile, now that Riesgraf and his team know how big the waves behave on the surface, they're going to focus on phase 2 to better understand what's going on under

water. That information could help natural resource departments determine the effects wake boats have on lake bottoms and ecosystems.

Shneider and others look forward to those results, hoping they can lead to more education, if not also regulation.

“We want to get the science first and let that influence public policy,” he says. “Whatever that is.”

Milwaukee Journal Sentinel

Concerned for lakes, **Wisconsin residents again urge Natural Resources Board to ban wake surf boats**



Paul A. Smith

Milwaukee Journal Sentinel

Wisconsin residents used a public testimony period at Wednesday's Natural Resources Board meeting in Manitowish Waters to once more press state officials for action on wake surfing.

Wake surf boats are power craft with special ballast tanks designed to increase their displacement and create larger than normal waves for surfing or tubing. Several thousand pounds of lake water are commonly taken into the tanks to increase the wake.

Use of the boats on Wisconsin waters has increased markedly in recent years, according to Darren Kuhn, DNR boating law administrator.

With more wake surfing has come more conflicts with other recreational users and a growing awareness of the ecological damage caused by the powerful boats, said Jeff Meessmann of Presque Isle.

Meessmann said wake surf boats can produce **wakes between 3 and 4.5 feet high.**

"Wake surf boats generate waves far more powerful than the greatest natural wind-driven waves on typical Wisconsin lakes," Meessmann said. "The problem is **the wakes create a safety hazard to everyone else using the lake, damage the environment, destroy personal property and erode the shoreline."**

file:///Users/bsmith/Documents/2024 cabin file /2022 Conservationists
Study Boat Traffic Causing Flathead River Erosion - Flathead
Beacon.html

A promotional banner for Northern Pines Golf Course. The left side features a scenic image of a golf course with a lake and trees, overlaid with the text "The best place to social distance!" and the "NORTHERN PINES" logo. The right side is a yellow and white text box with the following information:

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ENVIRONMENT

Conservationists Study Boat Traffic Causing Flathead River Erosion

As accelerating erosion impacts landowners and water quality on Flathead waterways, conservationists are studying causes and solutions in a study to present to the state Legislature

BY MAGGIE DRESSER
MARCH 4, 2022



The Eagle Bend neighborhood along the Flathead River and Flathead Lake in Bigfork on Jan, 28, 2021. Hunter D'Antuono | Flathead Beacon
In recent years, Samantha Tappenbeck

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2022
Conservationis
ts Study Boat
Traffic
Causing
Flathead River
Erosion -

Flathead
Beacon.html

of the Flathead

Conservation District has heard
increasing
reports from
landowners on
the main stem
of the Flathead
River who tell
her their land
is eroding at a
rapid rate, far

exceeding the
usual erosion
that occurs
naturally from
the Seli's
Ksanka
Qlispe' dam.

While river erosion is a natural
process, it has
historically
been
accelerated
since the dam
was installed
in the 1930s,
but a Flathead
River erosion
study is
showing that
an uptick in
recreational
wake boat
activity on the
river is
exacerbating
the problem.

“We are hearing from landowners in
recent years
that there's an
acceleration in

the erosion on
the lower 22
miles of the
Flathead
River,”
Tappenbeck
said. “They
are
anecdotally
reporting that
increased
erosion is
caused by
recreational
boating –
specifically
wake boats.”

According to landowners, about a foot
of riverbank is
typically
eroded every
year, but now
they are losing
7 to 9 feet of
bank per year.

“They suspect it’s because of the boat
traffic,”
Tappenbeck
said. “It really
has a powerful

effect on the
bank.”

In addition to the negative

consequences
on the public
and private
property along
the riverbank,
including
agricultural
land, erosion
has significant
negative
effects on the
water quality.
Unnaturally
high rates of
erosion are
sending high
loads of
sediments and
nutrients
including
phosphorus
and nitrogen
into the river
and
downstream,
polluting the
Flathead River

and Flathead
Lake.

The Flathead Conservation District,
the Flathead
River
Commission
and other
agencies are
working on a
legislative
study to
present to the
water policy
interim
committee to
determine and
mitigate the
impacts. The
draft report is
intended to
bring
legislative
action to the
next session.

“The importance for us is to bring it
forward as a
resolution to
the Legislature
was to really
determine the

specific
impact of boat
recreation on
the river that
seems to be
accelerating
the rates of
erosion,”
Tappenbeck
said.

Tappenbeck says there’s still
significant
information
needed to
determine the
potential
outcomes, but
those involved
in the study
are working to
brainstorm
potential
solutions to
mitigate the
erosion.

Potential solutions include a no-wake
zone on the
lower 22 miles
of the river or
prohibiting

boats near the shore, but Tappenbeck says both of those ideas would be controversial.

The water policy interim committee could also make a recommendation to bring forth a bill for legislative action that would allocate funding to assist landowners who are affected.

“Right now, the full financial burden is placed on the shoulders of landowners,” Tappenbeck said.

According to the interim study request to the

Montana State
Legislature,
the fiscal
impacts
associated
with the
erosion of the
Flathead River
and Flathead
Lake include
shoreline
property
values of
roughly \$7
billion while
impacting
tourism that
comprises
about 20% of
the local
economy.
Ecological
services like
water supply
and
purification
and flood and
drought
mitigation are
also impacted.

Other possible financial solutions include offering landowners a tax break or other types of program funding.

With the Flathead River Erosion study, the water policy interim committee will decide if there's an opportunity to introduce a statewide bill and a panel of stakeholders are meeting in March to determine if this localized issue is impacting waterways in other counties.

Tappenbeck says the Missouri, Gallatin and

Jefferson
rivers are also
experiencing
unprecedented
rates of
erosion,
although not
necessarily
from boat
traffic.

“The Flathead Conservation District is
very localized
to the Flathead
River, but
there’s
opportunities
for larger
impacts
statewide,”
Tappenbeck
said.

In addition to the legislative study, the
conservation
district
recently
secured grant
funding for a
scientific
study on the

accelerated
erosion rates.

Tappenbeck will present the Flathead
River Erosion
Study to the
Flathead Basin
Commission
meeting on
March 2. To
attend via
Zoom, contact
Cassidy
Bender at
[\[email protect
ed\]](#) for call-in
information.

The following is email from a volunteer Boat Inspector checking boats for invasive species at Swan Lake, Montana

The wake boats, with their **un-accessible ballast tanks**, pose a huge, **indisputable, risk for the undetected transfer of Aquatic Invasive Species (AIS)**. For the present we have to rely on FWP to clean/sterilize the tanks. They do so for all boats coming into Montana, **we hope**. As for wake boats in general, what a curse. They erode the banks, wreck docks, make things unpleasant for small boats, and destroy the airwaves with their so called music.

(Many property owners verbally express similar distain saying they hate Surf Boats)

Below is an excerpt from the Northwest Montana Lakes Network in 2021. This report establish the importance of complete checks of all boats entering the area to prevent the introduction of Aquatic Invasive species to Swan Lake. It is important to be aware that the ballast tanks of Surf Boats can not be adequately inspected, and pose a risk that invasive species may be introduced.

Northwest Montana Lakes Network 2021 Summary Report

5.4 Aquatic Invasive Species

5.4.1 Zebra and Quagga Mussels

Veliger samples and duplicates from plankton tows were collected at program lakes 2011-2021 and sent to MFWP for microscopy analysis. Select lakes from non-program partnerships also had eDNA samples taken and sent to the University of Montana laboratory. Most program lakes fall within the tolerance threshold for invasive mussel habitation if calcium is analyzed independently. All but six lakes had calcium concentrations that exceeded 20 mg/L. Although there is much variability in calcium

concentrations between program lakes, it is evident that the **overall risk-based habitat suitability is high.**

Determining lakes that are most suitable for zebra/quagga mussels will be especially important in making

management decisions unique to each lake, especially if an infestation occurs. Alkalinity concentrations

for all program lakes meet the minimum requirement of 18 mg/L for zebra/quagga mussel habitation.

5.4.2 Eurasian Watermilfoil

Eurasian watermilfoil (EWM) is a non-native perennial plant that roots to the bottom of water bodies and can grow in water up to 7.5 meters deep in favorable conditions. It forms dense mats at the water's surface shading out native plants and can clog boat motor propellers, decreasing recreational quality. EWM can spread rapidly because it reproduces through stem fragmentation.

Pieces the size of postage stamps that have broken off the main stem can reproduce. EWM is most commonly spread overland by boats that have not been cleaned after use in an infested water body.

Montana first discovered EWM in Noxon reservoir in 2007. In 2010, EWM was discovered at Tosten

Reservoir, Fort Peck Reservoir, the Jefferson River, and the upper and lower Missouri Rivers.

EWM was discovered at Beaver Lake in October of 2011. The isolated patch was estimated to be about 50 squarefeet in size. A thorough survey of Beaver Lake's littoral zone was conducted in late October of 2011, and no other isolated patches were found.

The Flathead County Weed District hired a diver to evaluate the extent of the infestation. After discovering that the patch was too large to remove by hand pulling, several bottom barriers were placed over the infestation to prevent it from receiving sunlight and to help minimize the spread through fragmentation. In 2012, a suction dredge was used to eradicate the majority of the EWM infestation. Additional dredging and surveying in 2013 revealed isolated patches of EWM. A total of 6 lbs. of EWM were removed by Hanson Environmental in 2013. Management of EWM at Beaver Lake became an important component of the Whitefish Lake AIS Management Program – a partnership between WLI and the City of Whitefish. In the summers of 2014 and 2015, Hanson Environmental removed roughly 1 lb. of EWM; in 2017, two plants were removed, and no plants were found in 2018. New EWM plants were discovered in 2019 and were promptly removed. Bottom barriers were again placed over the suction dredged areas to block out sunlight for any remaining plants. A follow up survey, suction dredging, and hand pulling were conducted by the partners in 2020. **Because of the real threat to Whitefish Lake and the watershed, suction dredging will continue indefinitely until there is confidence that EWM has been eradicated.**

After EWM was discovered in Beaver Lake, a joint effort between the Flathead County Weed District, MT Department of Agriculture, WLI, the Flathead Basin Commission and Hanson Environmental was made to survey boat ramps at lakes near Beaver Lake. No other infestations were identified. However, these surveys were conducted late in the season, after plants had already started to desiccate.

7.0 RECOMMENDATIONS

We recommend more intensive sampling on lakes with unique biological and chemical characteristics, those with native focal fish species, or lakes that have direct surface connection to those waters. Examples include Upper and

Lower Stillwater, Upper Whitefish, Smith, Tally, Beaver, Swan [Lake], Lindbergh, Holland, Foys Lake, and Flathead.

Given the increasing pressures on Montana's lakes from AIS, climate change, and increased human development, the need to gather consistent, accurate information on conditions from Montana's lakes has never been greater.

••••

The NMLN program relies on volunteers and project partners for long term success. Continued support is essential for the monitoring efforts to provide scientific data, education and outreach, and AIS early detection monitoring for the currently monitored forty-one lakes in northwest Montana.

It is our understanding that the Commission has yet to recognize the need for regulations to manage the increased use of Surf Boats. (see articles below) The Petitioners have fashioned a petition that has rules to allow all parties: property owners, surf boat owners and people making day trips to recreate on Swan Lake, to enjoy Swan Lake.

We have focused on Swan Lake because we realize that each lake is different and a blanket solution will not be effective for all bodies of water. We know Swan Lake and we have discussed the characteristics our Swan Lake. Our lake has lengths of natural forested shore line and on the western shore it has a natural rocky shore in many places that is capable of defending the shore from large waves. The developed shore line does not have the same level of protection as the rocky forested shores. We also recognize that there is a push back from those rocky

shores that sends the waves back across the lake. Consequently, the wider the lake the better, to allow the waves to dissipate on their way back across the lake.

Citizen Work Group Proposes Lake Five Boating Restrictions

Proposed rule would only allow wake surfing during specified hours after July 1

BY MICAH DREW
SEPTEMBER 12, 2023



Lake Five in West Glacier on May 29, 2020. Hunter D'Antuono | Flathead Beacon

A citizen work group is

recommending the state's Fish and

Wildlife Commission adopt wake

restrictions for boats on Lake Five

near West Glacier.

The rulemaking authority of Montana

Fish Wildlife and Parks (FWP)

convened the newly formed citizen group on Sept. 5 to develop a proposed recreational boating rule in

.

The 10-person working group spent most of its meeting discussing concerns about wakeboat use on the small, 164-acre lake, before coming to a majority decision recommended prohibiting wake surfing and wake-enhancement devices before July 1. After July 1, ballasts, wake enhancements and wake surfing would only be allowed between noon and 6 p.m.

Members of the group made suggestions ranging from not wanting any restrictions to an even narrower window of wake use, with seven members ultimately supporting the final proposal.

“I just don’t believe with the depth and width of Lake Five that we have adequate space for this,”

Dan Simonson, who submitted the original petition along with Lindsay Bennett, told the group. “We don’t want to be told what to do, and I get it, but Lake Five is small. When you try to do it all on Lake Five, it does feel like we’re pushing too

much.”

Simonson’s petition sought a “no wake” rule for all boats until July 15, along with a year-round ban on wake-enhancement devices such as ballast tanks, which would limit the lake to just water skiing, an idea that was moderated by the other group members who were not in favor of a complete ban on wake enhancement. While some group members pushed for a June 15 start date for wake surfing, they compromised on a July 1 opening, allowing for wakeboat use during the Fourth of July holiday

weekend.

The concerns raised by Simonson and other members of the working group included water quality, the potential for shoreline degradation and impact to other recreational users, including swimmers and anglers, which is exacerbated due to the shape and size of Lake Five.

Lake Five is roughly 164 acres, but is a narrow, Y-shaped body of water that creates natural limitations to recreational use.

According to the Administrative Rules of Montana (ARM), lakes

greater than 35 surface acres have statutory no-wake zones within 200 feet of the shoreline. However, eight lakes in Flathead and Lincoln counties are exempt from this rule, including Lake Five. The widest part of Lake Five, at the center of the Y, is approximately 1,200 feet from shoreline to shoreline on either side. The ability for recreational boaters to approach within 200-feet of shoreline at wake-inducing speeds can create problems along the water's edge. "There are enough people who are concerned about erosion that

we've seen with our own eyes, and obviously it's not impacting people's properties in the same way around the lake ... it seems to me that we can give the lake a couple of extra weeks at the beginning of the season before it gets busy," group member Suzy Boylan said. The original petition submitted cited several studies showing a minimum distance of 500 feet is recommended to attenuate wave energy and reduce shoreline erosion from wake boats. In addition, water fluctuations along the shore can affect nesting

waterbirds, including the Common Loon, which is listed as a species of concern in Montana.

While a 2009 FWP conservation plan does not list Lake Five as a likely summertime breeding location for loons due to high levels of human disturbance and the lake's size, the petition noted that a loon nest observed in the spring of 2022 failed, and a 2020 FWP survey documented one pair of loons on the lake.

Asked about enforcement mechanisms if the rule is adopted, FWP staff stated the rule would be added to the statewide boating

regulations and signage would be placed at Paul's Memorial Fishing Access Site. However, with 340 named lakes in the region, on-site enforcement would likely be limited

**Article from the Kalispell Daily Interlake
on September 7, 2023**

Lake Five near the gateway to Glacier National Park could see new boating restrictions next year after a work group came to a consensus Tuesday.

After five hours of deliberation, the group landed on a recommendation that wake enhancements and wake surfing should be prohibited on the lake until July 1. After that point, ballasts, wake enhancers and wake surfing are only allowed from noon to 6 p.m.

Seven members of the 10-person advisory group supported the recommendation that will be presented to

the Montana Fish and Wildlife Commission for consideration.

The work group was tasked with discussing recreational boating on Lake Five, a small lake near West Glacier, after the commission received a petition in October 2022 to prohibit wake surfing and devices used to increase wake size throughout the year, and to implement a no-wake restriction on the whole lake from April 1 to July 15.

The petitioner originally advocated for a July 15 start date to ensure water levels begin to lower before allowing big wakes. Other members of the work group argued for a June 15 start date to lengthen the season.

The group compromised on July 1, reserving the right for boaters to be on the lake during the Fourth of July holiday.

“It comes down to conservation, which means wise use,” Dan Simonson, a member of the work group and the original petitioner, said during the meeting.

The group met for the first time Aug. 24 where they discussed topics related to safety, natural resources and recreational use. The recent meeting was more focused on data points and creating a recommendation.

One data point noted that there has only been one boating accident on Lake Five since 2000, according to officials at Montana Fish, Wildlife and Parks.

Kenny Breidinger, a fisheries biologist at the state wildlife agency, also shared data revealing that Lake Five's water quality has degraded over time, although he said that could be for multiple reasons, such as productive plankton or high wakes.

"This is one thing where we do see changes in water quality," Breidinger said. "One of the possibilities is that increasing boat activity could decrease water quality."

Degradation of the lake was a common observation among some attendees who were concerned about sludge and shoreline erosion.

However, other members of the work group and public attendees disagreed with the notion.

Public participant Doug Wild, who lives on the northeast part of the lake, countered that he has seen no evidence of negative effects from recreational activity on the lake.

"We've seen no degradation," Wild said.

Peter Martin, work group member and a resident of Lake Five, agreed.

"Lake Five practically is a water skiing lake," Wild said.

"Let's not recreate a body of water to be something we want it to be."

However, Minnesota resident Chuck Becker, a board member of SafeWakes for Minnesota Lakes, warned that new ballast technology will only allow for bigger wakes.

“What you folks are experiencing is happening basically everywhere that [ballast boats] operate,” Becker advised during public comments.

The Montana Fish and Wildlife Commission decided not to initiate rulemaking on the proposed restrictions listed in the petition at their Feb. 22 meeting, choosing rather to assign a local work group with discussing the issue and coming up with a probable solution that represents multiple viewpoints.

When the commission discusses the work group’s recommendation, they will consider making the recommendation a rule which, if the rulemaking process is initiated, would include a public comment process.

Reporter Kate Heston can be reached at kheston@dailyinterlake.com or [758-4459](tel:758-4459).

FWP Commission Splits Decisions on Flathead County Wake Regulations Half Moon Slough will be designated as a no- wake zone with seasonal boating closure; similar proposal for Lake Five denied

BY MICAH DREW
OCTOBER 20, 2023



Lake Five in West Glacier on May 29, 2020. Hunter D'Antuono | Flathead Beacon

The Montana Fish, Wildlife and

Parks (FWP) Commission at its

Oct. 19 meeting

voted to move forward with

boating regulations on one

Flathead County body of water

while denying a second.

The seven-member commission voted 4-3 to advance a petition for Half Moon Slough along the Flathead River be designated as a no-wake zone to the rulemaking process. There will also be a seasonal boating closure on the slough from March 1 to April 15.

At the same meeting, the commission voted against boating regulations on Lake Five in Coram, despite a citizen advisory group recommending wake surfing and wake enhancements be allowed only between 12 p.m. and 6 p.m. beginning July 1.

The two separate petitions were sent to the commission last year, and in both cases the commission voted to defer rulemaking and directed FWP to assemble citizen working groups to analyze the requests and make a recommendation. For Half Moon Slough, a 10-person advisory group convened on Feb. 15 and unanimously agreed that the 32-acre slough should be recommended as a no-wake zone for safety and to prevent shore erosion, with a seasonal closure in place to protect migrating

waterfowl. FWP staff noted there was no documented boating accidents or data indicating boating safety issues on the slough, and wildlife managers told the commission there was no data to indicate waterfowl were impacted by recreation, leading the agency to advise against accepting the regulations.

Commissioner Jeff Burrows, who voted against the regulations, was concerned about adopting a piecemeal approach to individual bodies of water rather than a statewide standard, as the

commission would be required to vote on each one.

“This seems like a shotgun approach and I think there will be an enforcement nightmare,” he told the commission.

With the petition passing through the commission vote, the agency will work with the petitioners to draft the official language to present to the commission.

For Lake Five, the department convened an advisory group that met in August and September, ultimately reaching a majority decision to recommend the boating

regulations.

Lake Five is roughly 160 acres, but is a narrow, Y-shaped body of water that creates natural limitations to recreational use.

According to the Administrative Rules of Montana, lakes with public access that are greater than 35 surface acres have statutory no-wake zones within 200 feet of the shoreline. However, eight lakes in Flathead and Lincoln counties are exempt from this rule, including Lake Five. In the case of Lake Five, the

exemption stemmed from a lawsuit that arose between landowners on the lake and FWP more than a decade ago when the department acquired land along the shoreline to create Paul's Memorial Fishing Access Site. According to a former department attorney, who spoke at the commission meeting, the department advised the FWP commission to remove the statutory no-wake rule from the lake in exchange for opening the access site.

Public comment offered during the meeting was mixed between

opponents who did not want government rules interfering with recreational use of the lake, and proponents wishing to bolster boater safety and protect the shoreline from erosion.

“This recommendation fundamentally does respect multiple uses,” said Suzy Boylan, who was a member of the advisory group. “I think this is exactly the kind of thing working groups are supposed to do — take the stakeholders and come up with a plan that most people agree with

and can live with.”

The agency recommended against following the citizen’s group recommendation, again citing no documented boating accidents or public safety issues on the lake, as well as no evidence of shoreline erosions. The commission voted unanimously to deny the recommended regulations for Lake Five.

Fish and Wildlife Commission to consider new regulations for Half Moon Slough, Lake Five



The Half Moon Slough is seen to the left of Sibley Lane road in Kalispell. Property owners are concerned that continued erosion has brought the water closer and closer to the County Road, according to the petition. (Kate Heston/Daily Inter Lake)

By **KATE HESTON**

Daily Inter Lake | October 19, 2023 12:00 AM

The state Fish and Wildlife Commission is expected to decide Thursday whether to move forward with boating restrictions on Half-Moon Slough and Lake Five.

In anticipation of the Oct. 19 meeting, separate work groups, made up of concerned individuals and

stakeholders, drafted suggestions for what restrictions should be implemented, if any.

In February of this year, a resident work group recommended that the commission emplace a no-wake zone on Half Moon Slough. Nearby residents submitted a petition last year calling for increased boating restrictions.

The original petition, submitted on behalf of landowners Bob Borgan, Emmett Quigley, John Stebbins and Butch Clark, claims that wake levels on the slough have been destructive to the river bank and cited severe erosion.

The Montana Fish and Wildlife Commission reviewed the petition at its October 2022 meeting, but chose not to adopt a no-wake restriction immediately. Instead, the commission asked parks and wildlife officials to establish a group to evaluate the situation and weigh possible solutions that address recreational boat use on the slough. This recommendation is the product of that group's work.

A no-wake zone is an area where boats must travel at a speed where there is no white water in the track of their boats. Under the recommendation, boats

could still enter the slough if they maintain an appropriate speed.

“We just need to be good stewards of the land, both fisherman and boaters and the landowners,” said Emmett Quigley, a property owner behind the petition effort, at the work group’s February meeting.

The recommendation includes a seasonal closure for migrating waterfowl as well.

Half Moon Slough covers about 32 acres and stretches three-fourths of a mile long. The slough is around 400 feet wide, making any sort of wake restriction linked to distance from the shoreline difficult to enforce.

According to state rules, any lake 35 acres or less automatically gets a no-wake zone designation, according to Dillon Tabish, the Region 1 information and education program manager for Montana Fish, Wildlife and Parks. Since the slough is part of the river, that automatic designation does not apply.

For lakes larger than 35 acres, there is a designated no-wake zone extending 200 feet from the shoreline.

Due to its size and location, residents support a no-wake zone in the whole area. The commission took public comment on the recommendation this month.

“This petition is not about recreational boating or boating safety. We just want to protect our land. Again, please approve this small body of water and land in a no wake zone,” Quigley commented on Sept. 19.

Other commenters also supported the no-wake zone, but one commenter rejected the proposal.

“[It] seems if there have been no accidents or erosion created by wake, it would be unnecessary and burdensome to create a rule or regulation governing speed and access,” commented Matt Metcalf out of Hamilton.

LAKE FIVE, near the gateway to Glacier National Park, could also see new boating restrictions.

In an early September work group meeting, interested parties suggested that enhancements and wake surfing should be prohibited on the lake until July 1. After that point, ballasts, wake enhancers and wake surfing are only allowed from noon to 6 p.m.

“It comes down to conservation, which means wise use,” Dan Simonson, a member of the work group and the original petitioner, said during the September meeting.

The work group was tasked with discussing recreational boating on Lake Five, near West Glacier, after the commission received the original petition in October 2022. The petition requested the prohibition of wake surfing and devices used to increase wake size throughout the year, and to implement a no-wake restriction on the whole lake from April 1 to July 15.

Dan Simonson, in the petition, originally advocated for a July 15 start date to ensure water levels begin to lower before allowing big wakes. Other members of the work group argued for a June 15 start date to lengthen the season.

The group compromised on July 1, reserving the right for boaters to be on the lake during the Fourth of July holiday.

Officials received one public comment on the restrictions, which panned the work group’s proposal.

“We ask you to support the [agency's] recommendation to not accept the work group's recommendation,” wrote Aaron Hallenberg, the Northwest Government Affairs Manager for the Water Sports Industry Association. Hallenberg cited a lack of evidence and the possibility for increased confusion as reasons to reject it.

THE FISH AND Wildlife Commission will either agree to move forward with the rule-making process for these requests, or they will deny the motions altogether.

If the board decides to look into establishing the recommendations as a rule, the proposals would go through another round of public comments.

The meeting is on Thursday, Oct. 19 at 8:30 a.m at the State Capitol Building and will be accessible remotely via Zoom. The Region 1 Fish, Wildlife and Parks office, located at 490 N. Meridian Road in Kalispell, will livestream the meeting.

Reporter Kate Heston can be reached at kheston@dailyinterlake.com or 758-4459.

Article from the Kalispell Daily Interlake on September 7, 2023

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Degradation of the lake was a common observation among some attendees who were concerned about sludge and shoreline erosion.

However, other members of the work group and public attendees disagreed with the notion.

Public participant Doug Wild, who lives on the northeast part of the lake, countered that he has seen no evidence of negative effects from recreational activity on the lake.

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- **APPENDIX TO EXHIBIT B**
- **TO PETITION TO REGULATE SURF BOATS ON SWAN LAKE, MONTANA**

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Wake boats are making waves on Wisconsin lakes. Not everyone is happy about it.

Wake boats create waves for surfing. As they've grown in popularity, so have concerns about their effects on safety, shoreline erosion and the environment.

BY [DANIELLE KAEDING](#)

AUGUST 13, 2024

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Waves created by a wake boat crash against Mike Scandin as he wake surfs on Lake Minocqua on July 22, 2024. Danielle Kaeding/WPR

In late July, Mike Scandin and Mark Mapes headed out on the waters of Lake Minocqua in a Mastercraft X24 that's designed for wake surfing. Clouds threatened rain, but the sun peeked out as Scandin guided the boat 800 feet from the shore into an area of the lake about 40 feet deep.

The two have been wake surfing for almost two decades, and they're co-owners of the wake surfing school Surf Sconsin. Similar to water skiing in that a person is towed behind a boat with a rope, in wake surfing, the person eventually lets go and surfs the large waves created in the boat's wake.

At 69, Mapes said he got into the sport after his doctors told him to stop water skiing due to an arthritic disease. Now, he said, he surfs five days a week.

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“It’s a lot of fun. It’s very gentle movements. You’re moving everything in your body to do it, so it helps with agility, coordination,” Mapes said.

Scandin, 59, said he’s no spring chicken either, adding it’s nice that he doesn’t feel any negative effects the next day. For about the last nine years, he and Mapes have been teaching families and individuals how to wake boat responsibly during the summer. He said that includes surfing in the deepest water possible, far from the shoreline.

But just how far and how deep is at the heart of an issue making waves among users of Wisconsin lakes, and at times pitting neighbor against neighbor.

If boats are too close to the waterfront, Scandin agreed that’s a problem.

“Anyone can be a jerk in a boat,” Scandin said. “It’s not the style of boat that causes the problem.”

Opponents of wake boats say otherwise. The boats are designed to magnify a boat’s wake through ballast tanks or other features, creating the large waves for people to surf.

Some critics of the sport say wake boating activities

interfere with other forms of lake recreation, such as fishing and canoeing.

Conservation groups argue the boats and their waves pose risks to the environment, public safety and transfer of invasive species. They want such boats to stay 700 feet or more from the shore. The boating industry maintains 200 feet from the shoreline is enough distance to reduce impacts. In the last year, Wisconsin lawmakers introduced proposals reflecting both recommendations, but the issue remains unsettled as the state sees growing calls for regulation.



Mark Mapes wake surfs on Lake Minocqua on July 22, 2024. Danielle Kaeding/WPR

Wake boats can disrupt water recreation, fish habitats

Wake surfers ride waves created by large boats that are about 20 feet or longer, and newer models weigh between roughly 3,000 to 8,000 pounds. **As the boats have become more popular, Jeff Meessmann with Last Wilderness Alliance said it's driving others off the lakes.**

"A lot of people have bad experiences with wakesurfing boats, and they don't want to see them on their lakes because they can't do anything else," said Meessmann, chair of the group's hazardous wake task force.

On smaller lakes, Meessmann said he and others have been unable to fish, paddleboard, kayak or canoe at the same time as wake surfers. Some lake enthusiasts say those who do have gotten hurt or been swamped by waves if they get too close, according to Hans Meyer, vice president of Lakes at Stake.

Beyond that, he and others note the boats typically sit at a higher angle in the water while wake surfing, meaning the propeller creates a jet of water directed toward the lake bottom. One video posted by Last Wilderness Alliance shows a wake boat churning sediments as it passes in a shallow area of Big Cedar Lake in Washington County.

"These boats are stirring up the sediment on the bottom of the lake, so we're tearing up weed beds. We're interfering with fish habitat," Meyer said. "That's a very serious environmental problem."

Last Wilderness Alliance

55 subscribers

Wake Surfing - A Threat to Our Lakes

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A 2021 study of a lake in Waukesha County found wake boats increased phosphorus levels and produced larger waves that redeposit sediments on the lake bottom. Wake boat operators note the study's own findings say redistribution of sediments couldn't be solely attributed to wake boats.

Scandin argued it's better for wake surfers to be in deeper water of 20 feet or more for safety reasons as well as for the environment. Wake boat operators say there needs to be more tolerance from all lake users, as well as education.

As Mapes surfed on Lake Minocqua, Scandin noted two boats went around the waves.

"It took them five seconds longer to go around us," Scandin said. "They're happy. We're happy. Nobody has a problem with it." [COMMENT INSERTED BY PETITIONER: THAT IS A MATTER OF OPINION-THE SURFBOAT REQUIRED THE OTHERS TO DEVIATE WHILE THEY PLOWED STRAIGHT UP THE LAKE—AND OFTEN YOU HAVE TO STOP BECAUSE THE WAVE ARE DANGEROUSLY HIGH]

Rolf and Jennifer Eckert, former Minocqua residents who live in North Carolina, go wake surfing along with their kids Charlotte and Max, who enjoy doing tricks on the water. They said everyone should be mindful of others on the lake.

"We do try to get out early when there's not a lot of boat traffic, because it's also better for surfers to be out when there's not a lot of other traffic," Jennifer said.

Meyer said one solution may be to carve out times and areas for different users of the lakes.



Rolf Eckert and his wife Jennifer with their two kids Charlotte and Max. The family enjoys wake surfing together while vacationing on Lake Minocqua. Danielle Kaeding/WPR

Popularity of wake boating activity spurs studies on effects

The boats have become more popular as people sought the outdoors during the COVID-19 pandemic. In 2020, industry data show sales increased 20 percent to roughly 13,000 units nationwide, making up about 4 percent of new boat sales. Recreational boating creates an \$8.4 billion economic impact

in the state, according to the National Marine Manufacturers Association.

Wake boats typically operate around 11 mph to create waves between 2 to 3 feet for wake surfing. **A recent study from researchers at the University of Minnesota indicates concerns about their effects on shorelines, property and the environment may be justified.**

Researchers with the university's St. Anthony Falls Lab compared wakesurf and other recreational boats under typical operating conditions at a distance of 100 feet from the boats, according to Andy Riesgraf, one of the study's authors.

The crowd-funded study found wake boats produced maximum waves that were up to three times larger than the waves produced by other boats, with wave energies that were up to nine times greater and the maximum power of waves was up to 12 times larger.

"If you're wakesurfing, operate your boat a farther distance in the middle of the lake where it's deeper and farther away from shore to minimize any potential environmental impacts like sediment resuspension or shoreline erosion potential or damage to other people's property," Riesgraf said.

The findings show wake boats at wake surf speeds of 11 mph should be more than 500 feet from the shoreline to decrease their wave heights to levels similar to typical recreational boats operating at planing speeds of 20 mph that are 200 feet from shore. When both types of boats are plowing water at wake surf speeds, wake boats would have to be more than 425 feet from the shore to decrease wave

heights to levels similar to other recreational boats that are operating 200 feet from shore.

Wake boat supporters dispute those findings. They point to studies funded by the boating industry that found the boats only need to be 200 feet from the shore. Clifford A. Goudey, lead author of a 2015 study, said wakesport waves at that distance fall below those viewed as “exceptional” heights. “There had been a lot of rumors about these huge waves reaching the shore and doing damage and eroding shorelines,” Goudey said in an interview. “Of course, that can happen, but it does not take much of a distance offshore to greatly reduce that resulting wave height and then the risks of damage.”

However, the study found it took 300 feet for the wave height to drop by half of its original height of 26 inches in waters deeper than 22 feet.

Both supporters and opponents of wake surfing have accused one another of cherry picking data to back up their stance. Neither Goudey’s study nor the one by University of Minnesota researchers examined the effects of wake boats on shorelines.

Goudey said the effect of waves from wake boats often pale in comparison to those from wind-driven waves, but both he and Riesgraf noted boating activity should be avoided near more delicate shorelines that don’t receive winds.



Mike Scandin wake surfs on Lake Minocqua on July 22, 2024. Danielle Kaeding/WPR

States seek bans, regulations

The growing popularity of wake surfing has sparked debate over how to regulate the boats in states across the country, including Wisconsin. The state of Oregon has **banned wake surfing on a popular site of the Willamette River.** Earlier this year, **Vermont passed a rule that requires wake boats to operate in designated wakesport zones over 500 feet from shore in waters 20 feet deep.** A **new law in Maine requires a shorter distance of 300 feet from shore in waters at least 15 feet deep.**

Last year, the **Michigan Department of Natural Resources issued a report reviewing various findings on wake boats that stated waves created by them are an “emerging threat” in inland lakes.** The agency recommends boats used

for wake surfing operate at least 500 feet from shore in water at least 15 feet deep. **Wisconsin's Green Fire conducted a similar review that concluded wake boating activities should occur 600 feet from shore in water 20 feet deep.**

In November, Sen. Mary Felzkowski, R-Tomahawk, introduced a bill supported by the boating industry that would've prevented wake surfing within 200 feet of the shore or other structures, but it failed to get a hearing. Felzkowski said in a statement it's an extremely controversial issue driving a wedge between community members.

"I would have loved to see something get done this past (legislative) session, but very few people were willing to come to the table and have an honest conversation about what we could realistically get across the finish line," Felzkowski said, adding she looks forward to resolving the issue.

Another bill introduced late in the session by Sen. Andre Jacque, R-DePere, aligned with conservation groups' recommendations. It also failed to advance.

Wisconsin law currently sets slow-no-wake speeds, the slowest possible speed while minimizing waves, for motorboats within 100 feet of a shoreline, dock or swimmer. State statutes also say no person can operate a motorboat in a manner that will "create a hazardous wake" while approaching or passing other boats.

Even so, conservation groups and leaders in some communities say they can't afford to wait for state regulation.

At least two dozen local ordinances have been passed to regulate wake boats, according to Last Wilderness Alliance.

The town of Presque Isle is among those that passed an ordinance restricting enhanced wakes or waves produced by wake boats. The ordinance bars operation of boats that use

equipment like ballast tanks and fins that create large waves on 70 lakes within the town's boundaries with the exception of Oxbow Lake.

Town Supervisor Cathy Logan Weber said **officials feel like they can't wait for the state to act because of effects on safety, fish habitat and wildlife.**

"We're concerned about wildlife, how it affects the loons that set on their nests and also (aquatic invasive species) being brought from other lakes," she said.

The Lac du Flambeau Band of Lake Superior Chippewa has **banned wake boats on reservation lakes.** John Johnson, Sr., the tribe's president, cited similar concerns about damage to the environment, fish habitat and spread of invasive species as a reason for barring their use.



Jet skiers are riding and jumping waves created by a wake boat on Lake Minocqua on July 22, 2024. Danielle Kaeding/WPR

Wake boat design raises questions about spreading invasive species

Wake boat users like Scandin dispute that they carry a special risk of invasive species. Scandin said Surf Sconsin boats bring on ballast and empty water in the same lake. While there may be residual water in the tanks, he noted other boats have also potential to spread invasive species.

One 2016 study by Wisconsin Sea Grant found larvae of invasive mussels in two samples taken from the residual ballast water of 23 wake boats examined, indicating it's a potential pathway for transporting aquatic invaders.

More than 200 people have filed a petition to adopt a **“home lake” rule in Wisconsin similar to Vermont’s regulations that require boats to be used in only one lake each summer** and undergo decontamination to limit spread of invasive species.

The Wisconsin DNR has acknowledged that ballast tanks in wake boats are one potential way for invasive species to spread, but the agency notes that aquatic invaders had already become established in hundreds of inland lakes prior to the advent of wake boats. State environmental regulators say more information is needed to better understand their effects on spreading invasive species.

On Wednesday, DNR staff will hold an informational briefing on wake boats, state regulations and consideration of aquatic invasive species before the Natural Resources Board.

Editor's note: This story has been updated to clarify the findings of the study by researchers at the University of Minnesota.

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Additional attachments to Share Swan Lake's Petition for Rulemaking received by email:

1. "Calls to limit wakesurfing boats on Wisconsin Lakes", Fox6 News Milwaukee, dated June 18, 2024 available at <https://www.youtube.com/watch?v=prb9mgfARXI> [youtube.com]. 9 minutes.
(Received August 24, 2024)
2. "Wisconsin wake boat bans, neighbors pitted against each other, Fox6 News Milwaukee, dated September 18, 2024, available at [Wisconsin wake boat bans, neighbors pitted against each other | FOX6 Milwaukee \(fox6now.com\)](#). 7 minutes 43 seconds.
(Received September 23, 2024)