

BEFORE THE MONTANA FISH AND WILDLIFE COMMISSION

In the matter of the amendment of) RULEMAKING PETITION
ARM 12.11.3106 pertaining to) PURSUANT TO 2-4-315, MCA
wakesurfing and wakeboarding on)
Swan Lake)

TO: All Concerned Persons

1. **Petitioners.** The Petitioners in this matter are Doug and Carol Harwood, Don Smith, Monte Eliason, Bob Coffman, Dave and JoAnne Ford, Casey and Tara Boswell, Bert and Andrea Niehuis (the “Petitioners”). The Petitioners are property owners on Swan Lake, Montana, who have formed a group named Sharing the Swan to advocate for the adoption of rules to control the operation of Surf and Wake Board boats (collectively referred to herein as “Wake Board Boats”) on Swan Lake.
2. **Impairment of interest.** The Petitioners own properties on Swan Lake, and together with many of their neighbors, have had their use and enjoyment of the lake impaired, and their property damaged by the lack of control over the operation of Wake Board Boats which are specifically designed to create wakes up to 3 feet in height when they are employing ballast tanks, ballast bags or wake enhancing fins, and similar devices and/or computer generated programs (hereinafter “Apparatus”) to create large waves for surfing. These waves cause: (i) damage to docks, moored boats, shoreline, vegetation and trees along the shore line and under water, and the habitat for a variety of wildlife, fish, wild birds and other species who live in or near the water; (ii) interfere with the navigation and operation of other watercraft, including motorized craft, sail boats, kayaks, sculls, paddle boards and canoes and (iii) endanger swimmers, water skiers, wake boarders, scuba divers and other individuals attempting to use the same waters on Swan Lake.
3. **Studies of Damages.** Numerous studies establish wake boats are best operated a minimum of 500’ from docks and shore lines, and in a minimum water depth of 20’. Some wake board boat operators operate respectfully, and recognize the impact of their wake board boats, but unfortunately not all of them do. We are therefore requesting a regulatory change to help educate, enforce and mitigate the effect of their wake board boats. The following Exhibits are provided to support this request:

Exhibit 1: A literature Review of Wake Boat Effects on Aquatic Habitat,
State of Michigan Department of Natural Resources, July
2023,

Exhibit 2: A Field Study of Maximum Wave Height, Total Wave Energy, Maximum Wave Power Produced by Four Recreational Boats on a Freshwater Lake, St. Anthony Falls Laboratory, February 2022.

Exhibit 3: Lake Waramaug Wave Impact Study, Terra Vigils Environmental Services Group, November 2024.

If necessary, the Petitioners have additional exhibits that can be submitted to support this Petition.

4. **AMENDMENT**

The rule proposed to be amended would provide as follows, new matter underlined, deleted matter interlined:

12.11.3106 SWAN LAKE

(1) Swan Lake is located in Lake County

(2) Swan Lake is limited to a controlled no wake speed, as defined in ARM 12.11.101 from shoreline to to 500 feet from the shoreline.

(3) The northern outlet of Swan Lake to the southern tip of the southern most island (approximately 3/4 of a mile south), or as buoyed, is limited to a controlled no wake speed.

Authorizing statute(s): 23-1-106, 87-1-303, MCA
Implementing statute(s): 23-1-106, 87-1-303, MCA

5. **Additional Support.** Petitioners know of additional property owners who have expressed concerns with Wake Board Boating and have an interest in establishing rules to control Wake Board Boating. If necessary these individuals can be called upon for their support.

WHEREFORE, Petitioners request that the Montana Fish and Wildlife Commission initiate a rulemaking process under the Montana Administrative Procedure Act to consider the proposed amendment of ARM 12.11.3106 as set forth above.

Petitioners:

Sharing Swan Lake,
a coalition of Property Owners

On behalf of Sharing Swan Lake
by:

Don Smith, as a Member of the Coalition

Originally filed with the the Department of Fish,Wild Life and Parks on October 1, 2025 and
amended on January 9, 2025 as requested by the Department