

CCROA Board Response to 8/14/23 Letter from Surf Boat Advocates (SBAs)

August 30, 2023

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This response to the SBA's letter to the Board of Directors of the CCROA was written by Steve Kessler and reviewed by Eugene Clark. It represents the Board of Director's response to the SBA 8/14/23 letter as the Board voted 14-4 in favor of adopting the voluntary non-enforceable guidelines called into question by the SBA.

BACKGROUND:

- 1) At the May 11, 2023 Board Meeting the CCROA Board passed a motion to adopt "Recommended Operating Guidelines for Wake Surf Boat (WSB) Operation". These guidelines were further described as voluntary and non-enforceable. Fourteen Directors voted in favor and four were opposed.
- 2) The CCROA Board of Directors has received a letter objecting to these voluntary and non-enforceable "Recommended Operating Guidelines for WSB operation". The letter dated August 14, 2023, is signed by 25 Cisco Chain Surf Boat Advocates (SBAs). The August 14 letter has been posted, unedited, in its entirety on the CCROA website. See <http://www.ciscochainroa.com/latest-news.html>
- 3) The Fisheries Division of the Michigan Department of Natural Resources published "Fisheries Report 37" in September of 2022. The report included statements about the environmental impact of wake boat operation that concerned us given our mission to protect the quality of the Cisco Chain waters. Accordingly, CCROA President Eugene Clark requested Board Members to review this issue throughout the winter and to come to the first spring Board meeting ready to discuss.
- 4) Numerous articles addressing surf boat environmental impacts were forwarded to CCROA Board members throughout the winter. A summary of the studies reviewed can be found at <http://www.ciscochainroa.com/News-Events/2023/Wake-Surf-Boat-Studies-Summarized-June-2023.pdf>
- 5) Board Members also reviewed MDNR Fisheries Report 37. This report is the MI DNR's white paper on the subject. The MDNR reviewed numerous published studies and distilled all that information down to an easy-to-read summary with straight forward conclusions and recommendations. The MDNR's review was comprehensive. Fisheries Report 37 has a bibliography four pages long with 53 citations. You can see the complete Fisheries Report 37 at this link <http://www.ciscochainroa.com/News-Events/2023/WEW-MiDNR-Study-Updated-July-2023.pdf>
- 6) The MDNR withdrew its Fisheries Report 37 shortly after the Sept 2022 publish date. The report was reissued in July 2023 following ten months of additional internal review. The content and conclusions in the reissued report are virtually identical to the original report.

- 7) The MDNR's Fisheries Report 37 is eight pages long. Reading all eight pages will provide a very good understanding of why the CCROA Board voted to adopt "Recommended Operating Guidelines for WSB operation". Here is the Executive Summary in its entirety:

**State of Michigan
Department of Natural Resources
A Literature Review of Wake Boat Effects on Aquatic Habitat**

EXECUTIVE SUMMARY

The operation of wake boats in a manner that creates large waves can erode shorelines and resuspend sediments and is an emerging threat to natural resources in inland lakes. Wake boats can produce waves with 1.7–17 times the energy of other comparable-sized powerboats and their propellers generated enough turbulence to resuspend bottom sediments in water up to 33 feet deep. The large waves generated by wake boats take between 400–1,023 feet to dissipate to heights and wave energies observed 100–200 feet away from typical boats operating at cruising speed. Further, the use of ballast tanks in wake boats results in a dramatic increase in risk for transporting Dreissenid mussels and other aquatic invasive species and pathogens among water bodies. 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. 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.

Michigan's current boating laws and regulations are intended to both promote public safety and avoid property damage but were created prior to the commercialization and popularization of wake boats in the early 2000s. As a result of the large waves and increased scour caused by these vessels, the existing 100-foot operating buffers around docks and shorelines on inland lakes are not sufficient to protect aquatic resources. The Michigan Department of Natural Resources, Fisheries Division (Division) recognizes the recreational value and popularity of wake boats, and recommends the following voluntary best operating practices in support of the continued use of wake boats while minimizing the effects on natural resources:

1. Boats operating in wake-surfing mode or wake-boarding mode, during which boat speed, wave shapers, and/or ballast are used to increase wave height, are recommended to operate at least 500 feet from docks or the shoreline, regardless of water depth.
2. Boats operating in wake-surfing or wake-boarding modes are recommended to operate in water at least 15 feet deep.

Ballast tanks should be completely drained prior to transporting the watercraft over land.

It is recommended that awareness and voluntary adoption of these best operating practices be encouraged through outreach actions and materials to educate wake boat operators.

THANK YOU!

Many Cisco Chain surf boat operators chose to voluntarily cooperate with the "Recommended Operating Guidelines for WSB operation". Thank you to those boat operators who chose to voluntarily cooperate. We will never know for sure, but voluntary cooperation may have contributed to an improvement in 2023 water quality as compared to 2022. During the 2022

season the lower half of the chain experienced an unusual amount of algae growth beginning about July 1. This did not occur in 2023. Was the 2023 improvement due to lighter spring winds, cooler water temps, or was it attributable to a reduction in surf boat agitation of bottom sediments? Again, who knows? What we do know is that we have no control over most of the potential causal factors and can only impact a few. We all recognize the complex nature of the Chain's ecosystem.

RESPONSE TO AUGUST 14, 2023 LETTER FROM SURF BOAT ADVOCATES (SBAs)

- 1) There are 25 signatories to the August 14 letter. There are 757 Cisco Chain privately owned real estate parcels per recent tax records. Approximately 3% of all riparian owners signed this letter. We welcome opinions from everyone and thank the SBAs for sharing their opinions. The SBAs present many of their opinions as facts and we do take exception to that.
- 2) SBAs: *The CCROA By-Laws limit CCROA actions to matters relative to the Cisco Dam and to the management of the Aquatic Invasive Species. Adopting Recommended Guidelines...are not specifically mentioned in the By Laws and are therefore not appropriate.* Response: Article II, Section A of the By Laws define the purpose of the CCROA. Our purpose is not as narrow as the SBAs allege. Here is an excerpt from Article II Section A, Item 2: Purpose:....To do all things necessary and incidental to promote the common benefit and enjoyment of and promote and foster the use of the Cisco Chain of Lakes and surrounding area's natural resources.....to serve in advisory capacity as to lakes, rivers, and land use, in encouraging maintenance of nature...
- 3) SBAs: *Issuance of Recommended Operating Guidelines for WSB Operation is a violation of the rules governing not for profit organizations.* Response: We are exempt from federal income tax because we are organized under section 501 c 3. We qualified for this organization because our by-laws and articles of incorporation support our purpose as meeting one or more of the exempt purposes specified under this IRS code. Adopting "Recommended Operating Guidelines...." falls within the permitted activity of "education". Most lake associations are organized as 501 c 3s and are engaged in very similar activities as the CCROA including Wisconsin Lakes, "the statewide lake association". Neighboring 501 c 3s include: ERCLA Eagle River Chain of Lakes Association, ISCCW, Manitowish Waters Lake Association, Big Portage Lake Association, and Black Oak Lake Association.
- 4) SBAs: *The CCROA should not be involved in issues which the DNR believes are sufficiently covered by existing boating laws.* Response: The SBAs are entitled to this opinion but there is no By Law, Article of Incorporation, state statute or IRS code that states that we should not be involved in an issue that the DNR believes is covered by existing boating law. More importantly, the MDNR Fisheries Report 37 states that state boating laws are not sufficient. Here is an excerpt from the "Current Boating Law" section of that document:

“...the Division concludes that the current 100-foot buffer is not sufficient to protect public trust aquatic resources”.

- 5) SBAs: *The CCROA has no rule making authority. The CCROA cannot enforce any proposed guidelines.* Response: Agreed. The “Recommended Operating Guidelines for WSB Operation” are, in fact, voluntary and non-enforceable recommendations. The CCROA Board felt that its mission of “Promoting Safe Fun on Clean Lakes” compelled us to advance these recommendations. The CCROA Board is relying on continuing education to increase awareness and to encourage voluntary operation of WSBs in a manner that is consistent with the preponderance of studies on the environmental impact of this sport.
- 6) SBAs: *The appropriate action for the CCROA Board is to seek changes in legislation.* Response: The CCROA Board did not take that step as it believed that additional time was needed to build awareness and consensus amongst the CCROA membership.
- 7) SBAs: *The WSBs based on the Chain do not pose an aquatic invasive species transfer risk as they tend to stay on the Chain the entire season.* Response: Agreed. The recommended operating guideline of “completely draining ballast tanks prior to transporting watercraft over land” was included primarily due to the risk posed by WSBs visiting for one week rentals or visiting for other short term reasons. Additionally, the Board was concerned about the risk that visits from transient surf boats will increase in the future as near-by towns adopt WSB regulations. As a matter of reference, the Board of the Eagle River Chain of Lakes Association (ERCLA) acknowledges that the vast majority of WSB operation on their chain is from visitors. Our recommended guideline relative to dry ballast tanks is valid today and will be even more important in the future if our WSB traffic becomes reflective of the traffic currently experienced on the Eagle River Chain.
- 8) SBAs: *Fishing boats pose a greater risk of invasive species transfer as they come on and off the chain every day.* Response: Any boat transferring water from one body of water to another is a risk. Hence our Clean Boats Clean Waters program. Surf boats are different. They are harder if not impossible to inspect. Ballasts tanks cannot be emptied entirely. Yes, there are a few drops of water in a fishing boat engine even if the live well is dry. It is a matter of degree. Surf boat ballast tanks have been shown to carry several gallons of water even when they are believed to be dry.
- 9) SBAs: *The recommended guidelines are extreme.* Response: We disagree. The 500 feet from the shoreline recommendation is consistent with the MDNR report. That report includes a table showing the results of 20 different studies. Eight of those studies concluded that the distance wake boat waves require to dissipate to energies of waves created by typical motorboats were greater than 500 feet. Five of those studies concluded that the required distances are greater than 900 feet. The MDNR report notes that the Endicott Fay study funded by the National Marine Manufacturers Association claims that 200 feet is all that is required to reduce wave energy and minimize erosion and resuspension and states: “However, these conclusions are inconsistent with other

studies.....and Fay admits that their models are not appropriate for distances beyond 100 feet”. The CCROA voluntary and non-enforceable guidelines recommend wake surf mode operations only be conducted in water greater than 20 feet deep. The MIDNR cited studies observing sediment resuspension at depths up to 33 feet but ultimately recommended 15 feet. We decided to recommend 20 feet after reviewing the North Lake study which observed a 25% increase in phosphorous after two surf boat passes in 25 feet of water. We were also moved by the fact that, with the exception of Thousand Island Lake, the Cisco Chain Lakes have relatively high phosphorous levels and are therefore vulnerable to algae blooms. The more depth below the propeller the less likelihood that phosphorous will be blown off the lake bottom into the water column. We look forward to the release of a study completed by the University of Minnesota on this issue. The expected release date is October or November of this year. The Board recommended a minimum lake size. The MDNR identified several states with lake size minimums but did not make that recommendation. They may have not made this recommendation as they noted that public safety was outside the scope of their report. The CCROA felt that a lake size recommendation was necessary to ensure the safety of multiple simultaneous lake users. The intention was also to provide additional protection to smaller lakes as many people have trouble judging distance across the water.

- 10) SBAs: *You have ignored data from a study at Anvil Lake.* Response: We have never seen this study. Google searches do not locate it and the SBAs did not share it with us. As previously noted, we did review a large number of studies and we reviewed the MDNR Fisheries report which reports on their review of many studies (there are 53 citations in the bibliography).

CONCLUSION:

The CCROA Board stands by its decision to adopt voluntary and non-enforceable “Recommended Operating Guidelines for Wake Surf Boat (WSB) Operation”. We see no conflict with our By Laws, Articles of Incorporation, or with the rules governing not for profit entities. We thank those boaters who chose to voluntarily cooperate with the recommendations and hope that our continuing education initiatives will continue to increase awareness and continue to influence WSB operation. We will evaluate our recommendations as additional studies are released and will consider modifications if new information is compelling.