



Oregon

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State Marine Board

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May 25, 2021

Senate Committee on Rules

Chair Wagner
Vice-Chair Girod
Senator Burdick
Senator Manning
Senator Thatcher

Dear Chair Wagner, Vice-Chair Girod, and Members:

This testimony is provided for SB 857 which proposes to amend recreational boating regulations for the Newberg Pool Congested Zone of the Willamette River (ORS 830.649). The Oregon State Marine Board (OSMB) has no position on this bill.

Currently, the Newberg Pool Congested zone has some of the most unique boating regulations in the state due to its heavy and varied use and considerable shoreline development. From 2010 to 2019, administrative rules adopted by the Marine Board restricted the use of wake-enhancing devices (WEDs) throughout the Newberg Pool (river miles 30 to 50) of the Willamette River. Because of a loss of efficacy and enforcement challenges of the WED ban, the Board adopted new rules in 2019 that restricted wake surfing in approximately half of the Pool and restricted wakeboarding within close proximity to docks. The Board revisited those rules in the winter of 2019/2020 and passed more restrictive regulations for wake surfing for the 2020 boating season. Those regulations, which are still in place, only allow wake surfing in two small sections in which there are no residential docks and are cumulatively approximately 3 miles long.

Legislation passed during the 2019 session of the Oregon State Legislature put additional requirements on those participating in wakesports in the Newberg Pool. Beginning in 2020, those engaging in wake surfing and wakeboarding in the allowed areas in this stretch of river are required to complete an education course and maintain the Towed Watersports Education Endorsement. The current fee for this endorsement established in Oregon Administrative Rule is \$60 and requires renewal every two years. Statute allows for a fee of up to \$124.

As well as maintaining the Towed Watersports Education Endorsement, wakesport participants in the Newberg Pool must also secure a Towed Watersports Motorboat Certificate for any watercraft to be used for wakesports. This certificate comes in the form of a decal which must be affixed to the watercraft. To receive a decal, applicants must provide the Marine Board with

the loading weight of their watercraft, which is defined in rule as the weight of the boat plus the factory ballast capacity. Rules adopted by the Marine Board in October 2019 established a 10,000 lb. maximum loading weight limit for applicants seeking the decal. Boats with a loading weight over this limit are currently ineligible to receive the decal and therefore cannot be used for wakesports in the Newberg Pool.

To date, 676 boaters have completed an education course and received the Towed Watersports Education Endorsement and the Marine Board has issued 445 Towed Watersports Motorboat Certificates to eligible motorboats. The average loading weight of these boats is 5,058 lbs.

SB 857 would expand the education and decal requirements from wake surfers and wakeboarders to all towed watersports participants, including those waterskiing and towing inflatables. This would likely lead to a significant increase in the number of boaters applying for endorsements and decals. Additionally, these bills would change the maximum loading weight to 4,000 lbs. for all boats engaged in towed watersports in the Newberg Pool.

The proposed -1 amendment to SB 857 would redefine the Newberg Pool as the stretch of river between Willamette Falls (river mile 26.6) and the mouth of the Yamhill River (river mile 55), therefore expanding the current regulations for the Newberg Pool to an additional 8.4 river miles. The amendment would also completely eliminate wake surfing where it is allowed in the Newberg Pool as currently defined (about 3 miles) as well as in the stretches between river miles 26.6 to 30 and 50 to 55.

One potential challenge of the proposed legislation will be that boat manufacturers are not required to specify the weight of boats that they build. Manufacturers of boats designed for wakesports typically provide these specifications, but it is not as common for other types of boats and is often unavailable for older fishing boats and runabouts. Because watercraft other than “wake boats” are often used for towed watersports other than wake surfing and wakeboarding, some applicants for the Towed Watersports Motorboat Certificate will have trouble reporting the factory loading weight of their boats.

For your convenience, a timeline of Newberg Pool boating regulations, as well as an overview of the current regulatory framework and Towed Watersports Education Program, is attached. Additionally, a similar overview for the Lower Willamette River is included, as the Marine Board recently completed a comprehensive review of conflicts and concerns for this stretch of river. This process culminated in several new regulations for the stretch of river between Willamette Falls and downtown Portland for the 2021 boating season and beyond.

If I may provide any additional information or clarification, I can be reached at (503) 378-2617.

Sincerely,

Larry Warren
Director, Oregon State Marine Board

LOCAL BOATING REGULATIONS

NEWBERG POOL (WILLAMETTE RIVER) RULES

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Rulemaking Timeline

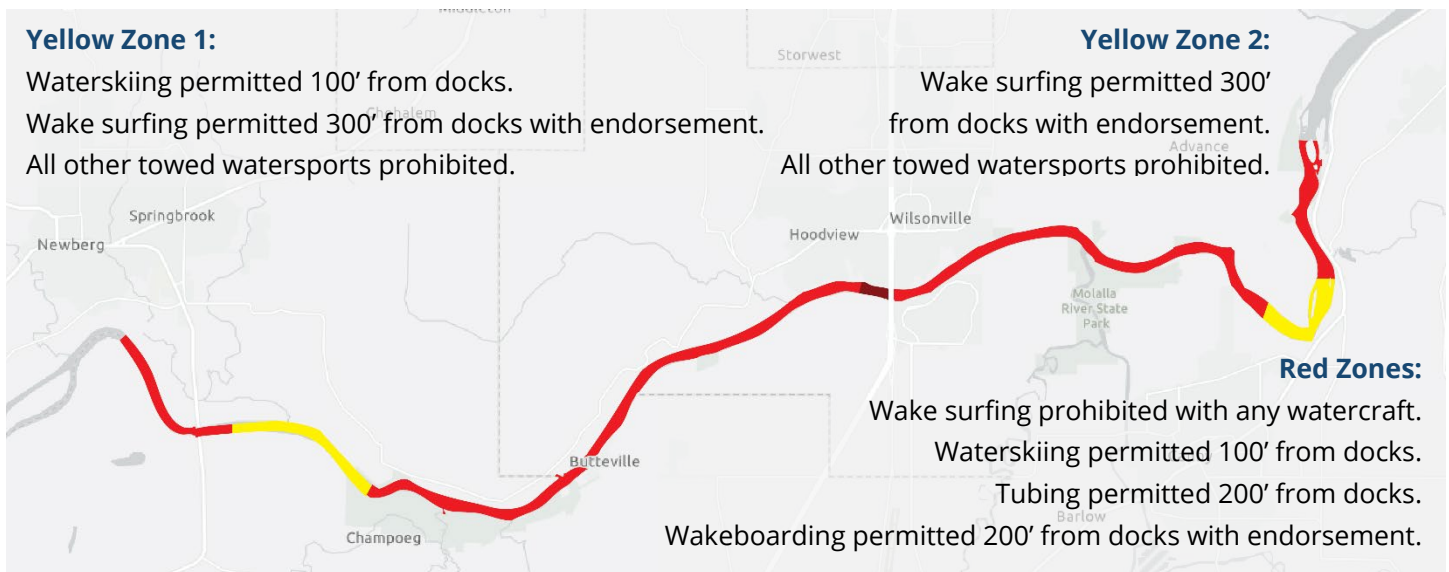
- 2010:** Due to the steady increase in the use of specialty boats for towed watersports, the Oregon State Marine Board (OSMB) adopts rules to prohibit the use of wake-enhancing devices (WEDs) in the Newberg Pool of the Willamette River.
- 2010 – 2017:** Technology evolves, the size and ballast capacity of “wake boats” increases, and enforcement of the WED ban becomes challenging.
- January, 2018:** OSMB opens the rulemaking process for the Newberg Pool due to legislative interest and the WED ban’s loss of efficacy. A Rule Advisory Committee (RAC) is convened to assist with rule development.
- January, 2019:** After considering input from the RAC and submitted public testimony, OSMB repeals WED ban and adopts zonal concept for wake sports in the Newberg Pool. These rules completely restrict wake surfing in ~50% of the 20-mile Pool and require all towed watersports to be practiced outside of requisite distances from residential docks. These rules are in place for 2019 boating season.
- July, 2019:** The Oregon State Legislature passes HB 2352 which creates a Towed Watersports Education Program within OSMB and requires additional education for those participating in wake surfing and wakeboarding in the Newberg Pool. The bill also directs OSMB to set a maximum loading weight for boats used for wake surfing and wakeboarding in rule. Boats above this weight would be ineligible from receiving the necessary decals and therefore ineligible from participating in these towed watersports in the Newberg Pool. This legislation takes effect January 1, 2020.
- October, 2019:** The Marine Board hears public testimony on the effectiveness of rules, reopens rulemaking, and directs staff to propose zone adjustments to further restrict wake surfing for boats of all sizes. Another RAC is convened. The Board also votes to adopt a 10,000 lb. loading weight limit for wake surfing and wakeboarding in the remaining three miles of the Newberg Pool per HB 2352.
- January, 2020:** HB 2352 takes effect. OSMB begins issuing Towed Watersports Education Endorsements per HB 2352 to applicants that complete an education course. Towed Watersports Motorboat Certificates, in the form of a large decal, are issued to owners of boats with a loading weight of 10,000 lbs. or below.



May, 2020: The Marine Board adopts the current regulatory framework for the Newberg Pool based in part on input from the RAC and other stakeholders. These rules restrict wake surfing to approximately 3 miles of the Newberg Pool in which residential docks are not present. Distance requirements for other towed watersports remain unchanged. The new rules take effect July 1, 2020. An overview of the current regulations is provided below.

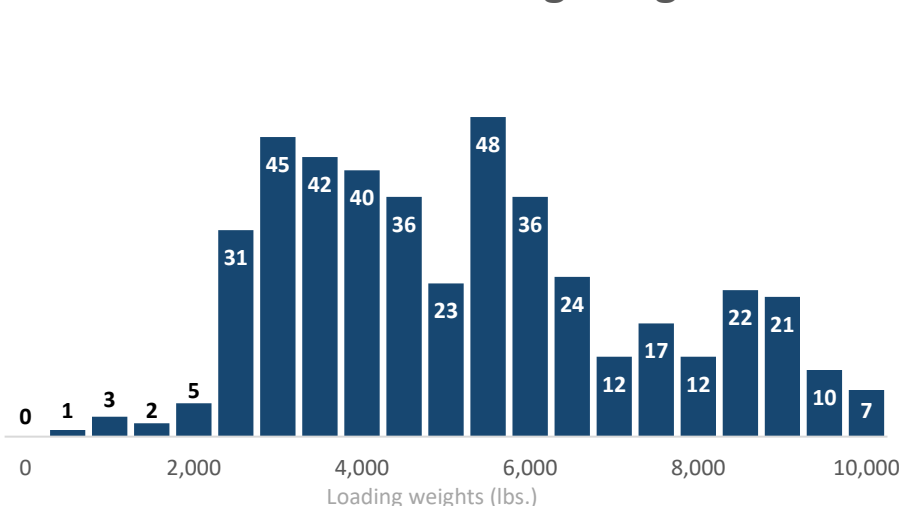
Current Regulations for the Newberg Pool

In the Newberg Pool (River Miles 30-50), people operating for the purposes of wakeboarding or wake surfing are required to carry a Towed Watersports Education Endorsement. Boats towing surfers or wakeboarders must also display a Towed Watersports Motorboat Certificate verifying that the boat meets weight requirements for this area.



Snapshot of the Towed Watersports Education Program for the Newberg Pool

Distribution of Boat Loading Weights



As of May 25, 2021, **676** applicants have successfully passed their exam and received their Towed Watersports Education Endorsement. Additionally, **437** boats have been certified to receive their Towed Watersports Motorboat Certificate. The average loading weight (combined dry weight and factory ballast capacity) of these boats is **5058 lbs.**

LOCAL BOATING REGULATIONS

LOWER WILLAMETTE RIVER ADOPTED RULES

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Rulemaking Timeline

- June, 2019:** Due to several reports of conflict between users of the Lower Willamette River, the Oregon State Marine Board (OSMB) holds two listening sessions in Portland to gather public input on potential concerns. The public is also able to provide information in an online survey.
- October, 2019:** After reviewing input gathered during the listening sessions, the Board initiates the rulemaking process for the Lower Willamette River and directs OSMB staff to convene a Rule Advisory Committee (RAC) to aid in gauging the positive and negative effects of any proposed regulations.
- November, 2019 to April, 2020:** A RAC is assembled of 22 stakeholders representing various perspectives. Two in-person meetings are held before RAC input must be solicited virtually due to the onset of the pandemic. Multiple regulatory concepts are developed for consideration by the Board, and RAC members provide their opinions on the concepts.
- May, 2020:** The Board considers the regulatory concepts reviewed by the RAC. The Board directs staff to solicit further input from the RAC regarding a concept that extends the Holgate Channel slow no-wake zone and pass-through zones north and south of Ross Island. Virtual public testimony on all Board Meeting agenda items is accepted prior to the meeting.
- July, 2020:** After reviewing feedback from RAC members, the Board directs OSMB staff to formally propose new rules to extend the Holgate Channel slow no-wake zone and that create pass-through zones to the north and the south of Ross Island. Public comment on this proposal is solicited from September 1st through October 4th. The Board also directs staff to gather information on the stretch of river between the Sellwood Bridge and Willamette Falls. Virtual public testimony on all Board Meeting agenda items is accepted prior to the meeting.
- September, 2020:** OSMB staff solicit input from state and federal agencies and local municipalities regarding the impacts of boating in the Sellwood-Bridge-to-the-Falls stretch on the river environment, water quality, public safety, and other river users. A survey is also distributed to nearly 800 boaters and riverfront homeowners to assess public opinions on boating impacts and potential boating regulations.

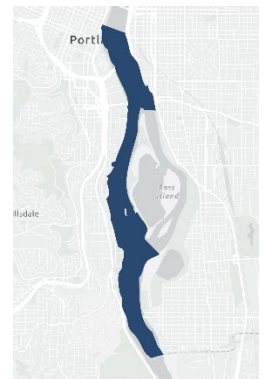
October, 2020: After considering received testimony, the Board votes to adopt the Holgate Channel slow no-wake zone and Ross Island pass-through zones at their quarterly Board Meeting. After reviewing materials regarding the stretch between the Sellwood Bridge and Willamette Falls, the Board also directs staff to propose additional rules. This proposal includes connecting the already-adopted pass-through zones to create one continuous seasonal pass-through zone and creating buffer zones (100 ft. slow no-wake, 200 ft. for wakeboarding and towing of inflatables) around private on-water infrastructure. Wake surfing is completely restricted in this stretch as part of this proposal. Public comment is solicited from December 1st through January 25th, and two virtual public hearings are held. Virtual public testimony on all Board Meeting agenda items is accepted prior to the meeting.

January, 2021: The Board reviews hundreds of pieces of submitted oral and written testimony, and after some deliberation, votes to adopt the proposal and end the rulemaking process. Virtual public testimony on all Board Meeting agenda items is accepted prior to the meeting. Focus is shifted towards rule implementation, education, and outreach. An overview of the adopted regulations is provided below.

Pass-through zone regulations (May 1 to September 30)

Hawthorne Bridge to Waverly Marina

- All watercraft may pass through the zones without reducing speed.
- No person shall operate a motorboat pulling a water skier, wake surfer, or towed device in these zones.
- No person shall operate a personal watercraft in continuous operation above 5 mph in these areas, except to transit directly through the zones.



Slow no-wake zone regulations

Holgate Channel and Ross Island Lagoon

- All watercraft must operate in this area at slow-no wake speed.
- This represents an extension of a previous slow-no wake zone in the Holgate Channel.



Towed watersports restrictions

Waverly Marina to Willamette Falls

- No wakesurfing permitted in this area.
- Slow no-wake within 100' of docks and other in-water structures.
- Waterskiing permitted outside of 100' from docks and other in-water structures.
- Wakeboarding and tubing permitted outside of 200' from docks and other in-water structures.

