



Lake Simcoe Recreation Strategy Comments

June 29, 2010

“... it is expected that fostering sustainable, low-impact opportunities to enjoy the lake would encourage more people to value it and, ultimately, increase the number of people engaged in lake stewardship” (Lake Simcoe Protection Plan, p. 63.)

1. Recommended priorities:

- Consult the Lake Simcoe Science Committee to define what impairs the ecological health of the watershed in this context.
- Seasonal or zoned protection of spawning habitats from unnatural disturbances must be included.
- Prioritize visible changes like naturalized public access areas that encourage canoe, kayak, innertube, or swimming use of the lake.
- Feature the lake by promoting restaurants, picnic areas and other spots with lake views by recreational sites like kayak rental shops. Lake Champlain is a good example.
- With 12,000 cottages full of tax-paying “recreational users” in the watershed, cottagers groups should be consulted in this process. FOCA might be interested, or Rescue Lake Simcoe Coalition, or one of its member groups.
- Transport Canada and the OPP should be consulted about safe and sustainable use of motorboats.
- Laws about the un-muffled, direct engine exhaust systems in Cigarette boats (off-shore racing and similar high-performance boats) must, at the very least, be enforced through this process. Due to the weakness of existing applicable laws, we recommend that the laws be enhanced, or that the boats be banned on inland lakes like Lake Simcoe.
- Lake Simcoe Protection Act and Plan says that golf courses *should* implement Best Management Practices to reduce their impact. The implementation should be stronger; recommending or piloting Audubon golf course certification would be a positive way to start: <http://acspgolf.auduboninternational.org/>

Motorboats:

- The recreation policy suggests identifying impacts of boating. Therefore we would like to see this move forward, prioritizing analysis of Cigarette boats, specifically whether they should be permitted at all in inland lakes, under what conditions, and assessing whether existing regulations are enforced or enforceable.
- It is unclear why wake and boat speed are outside of the scope of this strategy if motorboats are listed as an example of a use to be analyzed for its sustainability. The strategy appears to contradict itself. Personal watercraft needs to be included in the Strategy.
- If it is not doing so already, the MOE should talk to the federal Transport Canada, which has responsibility for the Canada Shipping Act, to discuss these matters.
- There are no speed limits that apply to motorboats further than 30 m from shore.
- The manager of Geranium Corp. owned Gold Oro Powerboat Club (formerly Gull Rock marina) indicated that they now service approximately 100 of Cigarette boats that operate on Lake Simcoe and that marina only has about 60 wet slips. The Big Bay Point developer (Geranium Corp.) plans to build a 1000 slip marina. We are gravely concerned that if we do not catch this, that the proposed BBP marina could house hundreds of these noisy boats. Now is the time to investigate their impacts on Lake Simcoe.

Specific recommendations:

- Do scientific research to determine when and where fish need protection from motor boat engines, particularly at Big Bay Point.
- Encourage the OPP to prioritize enforcing the law that requires mufflers and disconnected muffler by-pass (see section (2) below) in Cigarette boats.
- Users of the boats must pay for the testing and enforcement by license and testing fees.
- Specific, measurable, noise level limits must be set.
- Work with Transport Canada and local OPP marine police on the following possible solutions to the problem:
 - Consider a ban on Cigarette boats on inland lakes; they are off-shore boats and should stay off-shore.
 - Ban boats over a certain horse-power based on weight ratio on inland lakes.
 - Only allow quieter, properly muffled, "through-drive" exhaust systems on inland lakes, at any distance from shore.
 - Consider a program that allows only approved, certified mufflers to be installed. Compliance must be certified and proved by permit sticker or similar.
 - Develop low and safe speed limits for motorboats on Lake Simcoe.

2. Applicable laws:

Small Vessel Regulations SOR/2010-91 under the CANADA SHIPPING ACT, 2001:

<http://gazette.gc.ca/rp-pr/p2/2010/2010-05-12/html/sor-dors91-eng.html#REFa>

Section 1 defines “muffler” as follows:

“muffler” means an expansion chamber within the exhaust line specifically designed to reduce engine noise, but does not include a muffler cut-out, straight exhaust, gutted muffler, glass pack muffler, by-pass or similar device.

PART 10 of the Regulation is entitled SAFETY PRECAUTIONS AND OPERATIONAL REQUIREMENTS and includes the following provisions respecting Mufflers:

1000. (1) No person shall operate or permit another person to operate a power-driven vessel unless it is equipped with a muffler that is in good working order.

(2) No person shall operate or permit another person to operate a vessel equipped with a muffler cut-out or by-pass unless the muffler cut-out or by-pass is visibly disconnected in a manner that ensures it cannot be easily reconnected while the vessel is in operation.

(3) Subsections (1) and (2) do not apply in respect of a vessel that

(a) was constructed or manufactured before January 1, 1960;

(b) is engaged in formal training, in an official competition or in final preparation for an official competition;

** “official competition” means a competition or regatta organized by a governing body or by a club or an organization that is affiliated with a governing body.

(c) is propelled by an outboard engine or a stern-drive, if the exhaust gases are directed under water through the propeller hub or below the cavitation plate;

(d) is operated at five or more nautical miles from shore; or

(e) is propelled by gas turbines or by an aircraft-type propeller operating in air.

There is also a rule against travelling at more than 10 km per hour nearer to the shore than 30 meters in Section 2(7) Vessel Operation Restriction Regulation.

General section 1007 in the Vessel Operation Restriction Regulation: "No person shall operate a vessel in a careless manner, without due care and attention or without reasonable consideration for other persons."

3. What the police enforce:

We spoke to "Safe Team" Sergeant Daryl Grenville, with Central Region OPP, 705-329-8271.

Three police forces work on Lake Simcoe: Barrie Police Force, the OPP which does the north-west side, and York Region Police which does the south end.

- Within 5 nautical miles of shore motorboats must have a muffler and a disengaged bypass mechanism. This requires the operator to walk to the back of the boat to hit the switch to bypass the muffler, and then carry on, if they're 5 beyond nautical miles from shore;
- Policy try to check the boats for muffler violations before they leave the marina;
- There is a \$500 for a muffler violation;
- They have prosecuted in the past.

Problems identified by Sergeant Daryl Grenville:

- Police cannot catch these boats when they're at speed;
- Some Cigarette boats have unmuffled outboard engines, and are in violation of Transport Canada's laws referenced above;
- The Orillia Performance Boat Club cannot sanction an "official competition", and therefore they are not exempt from the above laws;
- You cannot get a permit from any other legal body other than Transport Canada to violate from the above laws, with the exception perhaps of a municipality;
- Transport Canada introduced new legislation, but the laws are weak and hard to enforce;
- Even the legal mufflers are not quiet. If the boats have a cut out, or expansion chamber (amplifies the sound) in the muffler it looks like a muffler, but it is still really loud;
- These boats' horsepower is too high. This is the reason why they are loud. There is no legal limit on that;
- Decibel reading regulations are recommended in other jurisdictions, but the equipment is really technical and difficult for the Police to operate;
- There are no speed limits apart from those within 30 m from shore;
- Getting detailed information about the motor boat from the citizen complaining is difficult: They must, specify the registration number on an offending craft, identify the driver, specify and prove speed, and specify and prove level of noise, and that it was from a non-muffled engine.

4. What the Poker Run event organizer says about the Cigarette boats on Lake Simcoe:

The day of our press release, June 11, Poker Run event organizer Carl McBride said that “the switch” to bypass the muffler was outlawed and that their members’ boats were in compliance with the law. He was also quoted in the Packet and Times saying these boats can travel 120 to 200+ KPH on Lake Simcoe depending on conditions.

Performance Boat Club blog, June 21, Carl McBride writes:

<http://www.performanceboatclub.ca/pbc-members/member-blogs/pbc-in-the-media.html>

“With exhaust noise becoming more of a concern among activists and waterfront residents, we had done some additional research in an effort to clarify issues of compliance and legality....”

Regarding CANADA SHIPPING ACT, 2001, Small Vessel Regulations: “Please note that even though Subsection 2b provides an exemption for “official competition” PBCE Inc. is not a sanctioning or governing body and therefore **we are not exempt with respect to this regulation....**

It is of my opinion that we should become part of the solution and not part of the problem as it relates to the noise issue. **The time has come to not just recommend that our members be compliant but rather make it a requirement that their vessels are legal and compliant in respect to noise abatement laws and regulations....**

The real issue is not the performance boats but rather the noise levels that they create. This is a solvable issue. **With the technology available and products that are readily available on the market we can make each and every one of our boats meet or exceed acceptable noise level requirements.”**

5. Final note:

Common sense dictates that it is not possible to have a safe, viable, sustainable Lake Simcoe Recreational plan for swimmers, fishers, spawning cold water fish, canoers, kayakers, sailors, wildlife, and a healthy shoreline, if hundreds of high performance Cigarette boats are allowed to operate on Lake Simcoe. The number of Cigarette boats moored at the proposed Big Bay Point marina could have an impact so significant that it could overwhelm other Lake Simcoe recreation strategy efforts. The MOE must study the impact of existing boat traffic and investigate the potential impacts of adding hundreds of Cigarette boats to the lake.

Cigarette boats or off-shore racers are by no means the only overly-fast, loud and intrusive boats on Lake Simcoe and elsewhere. The issue of appropriate use of a common natural asset

must take all of these motorboats into account to balance interests and blend with the natural environment.