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**WEST VIRGINIA LEGISLATURE**  
**Legislative Rule-Making Review Committee**

2002 SEP 17 A 10:36

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

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September 16, 2002

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NOTICE OF ACTION TAKEN BY THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

TO: Joe Manchin, Secretary of State, State Register

TO: Curtis Taylor  
Natural Resources, Division of  
Capitol Complex  
Building 3, Room 842

FROM: Legislative Rule-Making Review Committee

Proposed Rule: **Special Boating Rule, 58CSR26**

The Legislative Rule-Making Review Committee recommends that the West Virginia Legislature:

1. Authorize the agency to promulgate the Legislative rule  
(a) as originally filed  
(b) as modified by the agency
2. Authorize the agency to promulgate part of the Legislative rule;  
a statement of reasons for such recommendation is attached.
3. Authorize the agency to promulgate the Legislative rule with  
certain amendments; amendments and a statement of reasons  
for such recommendation is attached.
4. Authorize the agency to promulgate the Legislative rule as  
modified with certain amendments; amendments and a  
statement of reasons for such recommendation is attached.
5. Recommends that the Legislative rule be withdrawn; a statement  
of reasons for such recommendation is attached.

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ANALYSIS OF PROPOSED LEGISLATIVE RULES

Agency: Division of Natural Resources

Subject: Special Boating Rule, 58CSR26

PERTINENT DATES

Filed for public comment: June 14, 2002

Public comment period ended: July 15, 2002

Filed following public comment period: July 26, 2002

Filed LRMRC: July 26, 2002

Filed as emergency:

Fiscal Impact: None

ABSTRACT

The proposed rule amends a current legislative rule. Under Subsection 3.11 of the current rule, no motor boats are allowed on Boley Lake in Fayette County. The proposed rule would allow electric motors only. Subsection 3.68 is new. It would allow electric motors only on Mountain Valley Lake in Summers County.

AUTHORITY

Statutory authority: W.Va. Code, §20-7-22, which provides as follows:

The director is hereby authorized and empowered to prescribe and to enforce:

(a) General rules and regulations to be observed in the operation or navigation of motorboats upon, over or through the waters of this state which he shall deem necessary for the public health or safety of persons or

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property on or in such waters, or for the preservation of all forms of useful aquatic life, particularly as to speed, running, lights, signals, courses, channels, rights-of-way, and the disposal of oil, gas, gasoline or other wastes from such boats;

(b) Special rules and regulations for such particular, artificial or natural areas of water, for further limiting, restricting or prohibiting the operation or navigation of motorboats thereon to protect the public health or to protect and preserve useful aquatic life.

#### ANALYSIS

I. HAS THE AGENCY EXCEEDED THE SCOPE OF ITS STATUTORY AUTHORITY IN APPROVING THE PROPOSED LEGISLATIVE RULE?

No.

II. IS THE PROPOSED LEGISLATIVE RULE IN CONFORMITY WITH THE INTENT OF THE STATUTE WHICH THE RULE IS INTENDED TO IMPLEMENT, EXTEND, APPLY, INTERPRET OR MAKE SPECIFIC?

Yes.

III. DOES THE PROPOSED LEGISLATIVE RULE CONFLICT WITH OTHER CODE PROVISIONS OR WITH ANY OTHER RULE ADOPTED BY THE SAME OR A DIFFERENT AGENCY?

No.

IV. IS THE PROPOSED LEGISLATIVE RULE NECESSARY TO FULLY ACCOMPLISH THE OBJECTIVES OF THE STATUTE UNDER WHICH THE PROPOSED RULE WAS PROMULGATED?

Yes.

V. IS THE PROPOSED LEGISLATIVE RULE REASONABLE, ESPECIALLY AS IT AFFECTS THE CONVENIENCE OF THE GENERAL PUBLIC OR OF PERSONS AFFECTED BY IT?

Yes.

VI. CAN THE PROPOSED LEGISLATIVE RULE BE MADE LESS COMPLEX OR MORE READILY UNDERSTANDABLE BY THE GENERAL PUBLIC?

No.

VII. WAS THE PROPOSED LEGISLATIVE RULE PROMULGATED IN COMPLIANCE WITH THE REQUIREMENTS OF CHAPTER 29A, ARTICLE 3 AND WITH ANY REQUIREMENTS IMPOSED BY ANY OTHER PROVISIONS OF THE CODE?

Yes.

VIII. OTHER