

Form #3

Condition	Control (○)	Low (●)	High (□)
1	85	75	65
2	80	70	60
3	75	65	55
4	70	60	50
5	65	55	45

2011 JUL 25 PM 3:42

OFFICE ALBANY, MINA
SECRETARY OF STATE


Authorized Signature

QUESTIONNAIRE

(Please include a copy of this form with each filing of your rule: Notice of Public Hearing or Comment Period; Proposed Rule, and if needed, Emergency and Modified Rule.)

DATE: 7/22/11

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency Name, Address & Phone No.) DOC - DNR - Wildlife Resources Section
324 Fourth Avenue
So. Charleston, WV 25303

LEGISLATIVE RULE TITLE: Special Boating Rules

1. Authorizing statute(s) citation 20-1-7(30), 20-7-22 and 20-7-23

2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:

June 10, 2011

b. What other notice, including advertising, did you give of the hearing?

No public hearing was held. There was a 30 day comment period which was also advertised in a statewide News Release.

c. Date of Public Hearing(s) *or* Public Comment Period ended:

July 11, 2011

d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.

Attached _____

No comments received X

- e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing: (be exact)

n/a

- f. Name, title, address and phone/fax/e-mail numbers of agency person(s) to receive all *written correspondence* regarding this rule: (Please type)

Curtis L. Taylor, Chief
DNR Wildlife Resources Section
324 Fourth Avenue
So. Charleston, WV 25303

- g. **IF DIFFERENT FROM ITEM 'f'**, please give Name, title, address and phone number(s) of agency person(s) who wrote and/or has responsibility for the contents of this rule: (Please type)

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

- a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

n/a

b. Date of hearing or comment period:

n/a

c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

n/a

d. Attach findings and determinations and reasons:

Attached n/a

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Series 26, Special Boating Rules

Rule Title: _____

Type of Rule: ☒ Legislative ☐ Interpretive ☐ ProceduralAgency: Division of Natural Resources, Wildlife Resources SectionAddress: 324 Fourth Avenue, South Charleston, WV 25303Phone Number: 304-558-2771 Email: Billie.J.Shearer@wv.gov**Fiscal Note Summary**

Summarize in a clear and concise manner what impact this measure will have on costs and revenues of state government.

The proposed rule would add Indian Rock Lake, a five-acre small impoundment in Nicholas County, to the list of lakes restricted to no boating in Series 26, Section 58-26-3. This proposed rule is not anticipated to have a fiscal impact upon state government and would allow use of government emergency, law enforcement and research boats to operate on lakes with horsepower restrictions.

Fiscal Note Detail

Show over-all effect in Item 1 and 2 and, in Item 3, give an explanation of Breakdown by fiscal year, including long-range effect.

FISCAL YEAR			
Effect of Proposal	Current Increase/Decrease (use "-")	Next Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	0.00	0.00	0.00
Personal Services			
Current Expenses			
Repairs & Alterations			
Assets			
Other			
2. Estimated Total Revenues	0.00	0.00	0.00

Rule Title: _____

3. Explanation of above estimates (including long-range effect):

Please include any increase or decrease in fees in your estimated total revenues.

The Division of Natural Resources does not anticipate any changes in fees or revenues resulting from the proposed changes to this rule.

MEMORANDUM

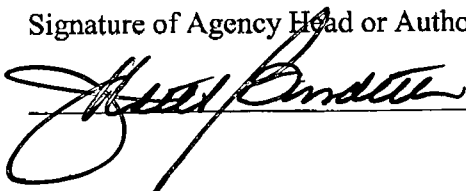
Please identify any areas of vagueness, technical defects, reasons the proposed rule **would not** have a fiscal impact, and/or any special issues **not** captured elsewhere on this form.

This small lake is owned by the Craigsville Ruritan Club which is allowing public fishing through an agreement with the Division of Natural Resources to manage the recreational fishing. The Ruritan club is requesting the no boating rule for safety reasons. The proposed rule will not have a substantial fiscal impact on costs or revenues.

The allowance of government emergency, law enforcement and research boats on lakes with horsepower restrictions will not have a substantial fiscal impact on costs or revenues.

Date: 7-25-11

Signature of Agency Head or Authorized Representative

_____

**TITLE 58
LEGISLATIVE RULE
DEPARTMENT OF COMMERCE
DIVISION OF NATURAL RESOURCES**

**SERIES 26
SPECIAL BOATING RULES**

SUMMARY:

Indian Rock Lake is a 5-acre impoundment in Nicholas county owned by the Craigsville Ruritan Club and managed under agreement by the Division of Natural Resources. The Ruritan Club requested a No Boating Rule for safety reasons on this small lake.

CIRCUMSTANCES:

The Division of Natural Resources seeks to clarify in the rule that government emergency, law enforcement and research boats may operate on lakes with horsepower restrictions.

**TITLE 58
LEGISLATIVE RULE
DEPARTMENT OF COMMERCE
DIVISION OF NATURAL RESOURCES**

**SERIES 26
SPECIAL BOATING RULES**

FILED
2011 JUL 25 PM 3:42

OFFICE OF THE CLERK
SECRETARY OF STATE

§58-26-1. General.

1.1. Scope and Purpose. -- This rule provides interpretations and guidance concerning special regulations that govern the operation of motorboats and other vessels on particular waters of this State.

1.2. Authority. -- W. Va. Code §§20-1-7(30), 20-7-22, and 20-7-23.

1.3. Filing Date. -- ~~March 27, 2008.~~

1.4. Effective Date. -- ~~March 27, 2008.~~

§58-26-2. Definitions.

2.1. "Director" means the director of the West Virginia Division of Natural Resources.

2.2. "Government-Owned Reservoir" means any natural or artificial impoundment, lake, pond, or reservoir that is partially or wholly within the territorial limits of West Virginia and is owned or administered by the federal government or by the State or any political subdivision of the state.

2.3. "Motorboat" means any vessel propelled by an electrical, steam, gasoline, diesel, or other fuel-propelled or drive motor, whether or not the motor is the principal source of propulsion, but shall not include a vessel which has a valid marine document issued by the Bureau of Customs of the United States government or any federal agency successor to the Bureau.

2.4. "Special Rules" means rules to be observed in the operation or navigation of motorboats and other vessels upon, over, or through the waters of a particular government-owned reservoir which the director considers necessary for the public health or safety of persons or property on or in those waters, or for

the preservation of useful aquatic life. Special rules supplement the provisions of W. Va. Code §20-7-1 et seq., and the general rules promulgated thereunder, as they relate to motorboats and other vessels by further limiting, restricting, or prohibiting the operation or navigation of the vessels on a particular government-owned reservoir.

§58-26-3. Special Rules for Government-owned Lakes.

3.1. Airport Pond (Raleigh County): No boating allowed.

3.2. Anawalt (McDowell County): No boating allowed.

3.3. Anderson (Kanawha County): No boating allowed.

3.4. Barboursville (Cabell County): No boating allowed.

3.5. Bear Rocks (Ohio County): Electric motors only.

3.6. Beech Fork (Wayne County): Motorboats are limited to a maximum of ten (10) horsepower and operators must observe no-wake zones marked by buoys or posted signs. Boats having motors greater than ten (10) horsepower shall have the propeller removed or have the motor withdrawn to the maximum trailerable limit while operating on this lake. Motorboats and other vessels may not enter restricted areas marked by buoys or posted signs.

3.7. Berwind (McDowell County): Electric motors only.

3.8. Big Ditch (Webster County): Electric motors only.

3.9. Big Run (Marion County): Electric motors only.

3.10. Bluestone (Summers County): Motorboat operators must observe no-wake zones and speed limit zones marked by buoys or posted signs which are approved by the Director. Motorboats and other vessels may not enter restricted areas marked by buoys or posted signs.

3.11. Boley (Fayette County): Electric motors only

3.12. Brandywine (Pendleton County): Electric motors only.

3.13. Brushy Fork (Site 19) (Pendleton County): Electric motors only.

3.14. Buffalo Fork (Pocahontas County): Electric motors only.

3.15. Burches Run (Marshall County): Electric motors only.

3.16. Burnsville (Braxton County): Motorboat operators must observe no-wake zones marked by buoys or posted signs which are approved by the Director. Motorboats and other vessels may not enter restricted areas marked by buoys or posted signs.

3.17. Cacapon (Morgan County): No motorboats allowed.

3.18. Camp Run (Pendleton County): Electric motors only.

3.19. Castleman Run (Brooke and Ohio Counties): Electric motors only.

3.20. Cedar Creek (Gilmer County): No boating allowed.

3.21. Charles Fork (Roane County): Electric motors only.

3.22. Cheat (Monongalia County): Motorboat operators must observe no-wake zones marked by buoys or posted signs which are approved by the Director. Motorboats and other vessels may not enter restricted areas

marked by the approved buoys or posted signs.

3.23. Chief Cornstalk (Mason County): Electric motors only.

3.24. Chief Logan (Logan County): No boating allowed.

3.25. Conaway Run (Tyler County): Electric motors only.

3.26. Coopers Rock (Monongalia County): Electric motors only.

3.27. Curtisville (Marion County): Electric motors only.

3.28. Dixon (Monongalia County): No Boating allowed.

3.29. Doe Run Sub-Impoundment (Taylor County): Electric motors only.

3.30. Dog Run (Harrison County): Electric motors only.

3.31. Dunkard Fork (Marshall County): Electric motors only.

3.32. East Lynn (Wayne County): Motorboat operators must observe no-wake zones marked by buoys or posted signs which are approved by the Director. Motorboats and other vessels may not enter restricted areas marked by buoys or posted signs.

3.33. Edwards Run (Hampshire County): No boating allowed.

3.34. Elk Fork (Jackson County): Motorboats are limited to a maximum of ten (10) horsepower and operators must observe no-wake zones marked by buoys or posted signs which are approved by the Director. Boats having motors greater than ten (10) horsepower must have the propeller removed or have the motor withdrawn to the maximum trailorable limit while operating on this lake.

3.35. Elk Two Mile (Site 12) (Kanawha County): No boating allowed.

3.36. Elk Two Mile (Site 13) (Kanawha

County): No boating allowed.

3.37. Elk Two Mile (Site 14) (Kanawha County): No boating allowed.

3.38. Fitzpatrick (Raleigh County): No boating allowed.

3.39. Flat Run (Marion County): Electric motors only.

3.40. Fort Ashby (Mineral County): No boating allowed.

3.41. French Creek (Upshur County): No boating allowed.

3.42. Frozencamp - Left Fork (Jackson County): Electric motors only.

3.43. Frozencamp - Right Fork (Jackson County): Electric motors only.

3.44. Handley (Pocahontas County): Electric motors only.

3.45. Hawks Nest (Fayette County): No restrictions.

3.46. Horse Creek (Wyoming County): Electric motors only.

3.47. Huey Run (Marion County): Electric motors only.

3.48. Hurricane (Putnam County): No boating allowed.

3.49. Indian Rock (Nicholas County): No boating allowed.

~~3.49~~50. James P. Bailey (Mercer County): No boating allowed.

~~3.50~~51. Jennings Randolph (Mineral County): Motorboat operators must observe no-wake zones marked by buoys or posted signs which are approved by the Director. Motorboats and other vessels may not enter restricted areas marked by buoys or posted signs.

~~3.51~~52. Jimmy Lewis (Mercer County): Electric motors only.

~~3.52~~53. Jonathan Larck (Putnam County): No boating allowed.

~~3.53~~54. Kanawha State Forest (Kanawha County): No boating allowed.

~~3.54~~55. Kee (Mercer County): Electric motors only.

~~3.55~~56. Kimsey Run (Hardy County): Electric motors only.

~~3.56~~57. Krodel (Mason County): Electric motors only.

~~3.57~~58. Larenim (Mineral County): No motorboats allowed.

~~3.58~~59. Laurel (Mingo County): Electric motors only.

~~3.59~~60. Lick Creek (Wayne County): No boating allowed.

~~3.60~~61. Little Beaver (Raleigh County): Rental boats only.

~~3.61~~62. Logan County Airport (Logan County): No boating allowed.

~~3.62~~63. Lumberport (Harrison County): Electric motors only.

~~3.63~~64. Mason (Monongalia County): Electric motors only.

~~3.64~~65. McClintic Ponds (Mason County): Electric motors only.

~~3.65~~66. Middle Wheeling Creek (Ohio County): Electric motors only.

~~3.66~~67. Miletree (Roane County): Electric motors only.

~~3.67~~68. Mill Creek (Barbour County): Electric motors only.

~~3.68~~69. Moncove (Monroe County): Motorboats are limited to a maximum of five (5) horsepower.

3.6970. Mountain Valley Lake (Summers County): Electric motors only.

3.7071. Mount Storm (Grant County): Motorboats and other vessels may not enter restricted areas marked by buoys or posted signs.

3.7172. Mountwood (Wood County): Electric motors only.

3.7273. New Creek (Dam Number 14) (Grant County): No boating allowed.

3.7374. North Bend (Ritchie County): Motorboats are limited to a maximum of ten (10) horsepower and operators must observe no-wake zones marked by buoys or posted signs which are approved by the Director. Boats having motors greater than ten (10) horsepower must have the propeller removed or have the motor withdrawn to the maximum trailorable limit while operating on this lake.

3.7475. North Bend Pond (Ritchie County): No boating allowed.

3.7576. O'Brien (Jackson County): Motorboats are limited to a maximum of ten (10) horsepower and operators must observe no-wake zones marked by buoys or posted signs which are approved by the Director. Boats having motors greater than ten (10) horsepower must have the propeller removed or have the motor withdrawn to the maximum trailorable limit while operating on this lake.

3.7677. Parker Hollow (Hardy County): Electric motors only.

3.7778. Pennsboro (Ritchie County): Electric motors only.

3.7879. Pipestem (Summers County): Rental boats only.

3.7980. Plum Orchard (Fayette County): Motorboat operators must observe no-wake zones marked by buoys or posted signs which are approved by the Director. Only motorboats powered by electric motors are allowed within zones marked by barrels.

3.8081. Poorhouse Pond (Berkeley County): Rental boats only.

3.8182. R. D. Bailey (Mingo and Wyoming counties): Motorboat operators must observe no-wake zones marked by buoys or posted signs which are approved by the Director. Motorboats and other vessels may not enter restricted areas marked by buoys or posted signs.

3.8283. Ridenour (Kanawha County): No boating allowed.

3.8384. Rock Cliff (Hardy County): Electric motors only.

3.8485. Rockhouse (Logan County): Electric motors only.

3.8586. Rollins (Jackson County): Electric motors only.

3.8687. Saltlick #9 (Braxton County): Electric motors only.

3.8788. Seneca (Pocahontas County): Electric motors only.

3.8889. Sherwood (Greenbrier County): Electric motors only.

3.8990. Silcott Fork (Roane County): No boating allowed.

3.9091. Sleepy Creek (Berkeley County): Electric motors only.

3.9192. South Mill Creek (Grant County): Electric motors only.

3.9293. Spruce Knob (Randolph County): Electric motors only.

3.9394. Stephens (Raleigh County): Motorboat operators must observe no-wake zones marked by buoys or posted signs which are approved by the Director.

3.9495. Stonecoal (Lewis and Upshur counties): Motorboats are limited to a maximum of ten (10) horsepower and operators must observe no-wake zones marked by buoys or posted signs which are approved by the Director.

No waterskiing is allowed. Boats having motors greater than ten (10) horsepower must have the propeller removed or have the motor withdrawn to the maximum trailorable limit while operating on this lake.

3.9596. Stonewall Jackson (Lewis County): Motorboat operators must observe no-wake zones marked by buoys or posted signs which are approved by the Director. Motorboats and other vessels may not enter restricted areas marked by buoys or posted signs.

3.9697. Summersville (Nicholas County): Motorboat operators must observe no-wake zones marked by buoys or posted signs which are approved by the Director. Motorboats and other vessels may not enter restricted areas marked by buoys or posted signs.

3.9798. Summit (Greenbrier County): Electric motors only.

3.9899. Sutton (Braxton County): Motorboat operators must observe no-wake zones marked by buoys or posted signs which are approved by the Director. Motorboats and other vessels may not enter restricted areas marked by buoys or posted signs.

3.99100. Teter Creek (Barbour County): Electric motors only.

3.400101. Thomas Park (Tucker County): Electric motors only.

3.401102. Tomlinson Run (Hancock County): Electric motors only.

3.402103. Tracy (Ritchie County): Electric motors only.

3.403104. Trout (Hardy County): No motorboats allowed.

3.404105. Tuckahoe (Greenbrier County): Electric motors only.

3.405106. Turkey Run (Jackson County): Electric motors only.

3.406107. Turkey Run (Marshall County): Electric motors only.

3.407108. Tygart (Taylor County): Motorboat operators must observe no-wake zones marked by buoys or posted signs which are approved by the Director. Motorboats and other vessels may not enter restricted areas marked by buoys or posted signs.

3.408109. Tygart River Backwaters (Town of Elkins) (Randolph County): Electric motors only.

3.409110. Upper Cove Run (Hardy County): Electric motors only.

3.410111. Upper Mud River (Lincoln County): Motorboats are limited to a maximum of ten (10) horsepower and operators must observe no-wake zones marked by buoys or posted signs which are approved by the Director. Boats having motors greater than ten (10) horsepower must have the propeller removed or have the motor withdrawn to the maximum trailorable limit while operating on this lake.

3.411112. Underwood (Cabell County): No boating allowed.

3.412113. Wallback (Clay and Roane counties): Electric motors only.

3.413114. Warden (Hardy County): Electric motors only.

3.414115. Watoga (Pocahontas County): Electric motors only.

3.415116. Westover Park (Monongalia County): No boating allowed.

3.416117. Whetstone (Marion County): Electric motors only.

3.417118. Wolf Run (Marshall County): Electric motors only.

3.418119. Woodrum (Jackson County): Motorboats are limited to a maximum of ten (10) horsepower and operators must observe no-wake zones marked by buoys or posted signs which are approved by the Director. Boats having motors greater than ten (10) horsepower must have the propeller removed or have the

motor withdrawn to the maximum trailorable limit while operating on this lake.

3.120. Law Enforcement, Emergency and DNR Research Vessels are exempt from these horsepower limits while working in official capacity.