

**WEST VIRGINIA  
SECRETARY OF STATE  
KEN HECHLER  
ADMINISTRATIVE LAW DIVISION**

Form #2

Do Not Write In This Box

FILED

JUL 31 9 33 AM '98

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

**NOTICE OF COMMENT PERIOD ON A PROPOSED RULE**

AGENCY: BUREAU OF COMMERCE, DIVISION OF NATURAL RESOURCES TITLE NUMBER: 58

RULE TYPE: LEGISLATIVE CITE AUTHORITY: W. VA. CODE §§20-7-22 & 20-7-23

AMENDMENT TO AN EXISTING RULE: YES X NO         

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 27

TITLE OF RULE BEING AMENDED: SPECIAL MOTORBOATING REGULATIONS

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED:   

TITLE OF RULE BEING PROPOSED:   

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON 31 AUGUST 1998 AT 4:30 p.m.. ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS:

LIEUTENANT COLONEL W. B. DANIEL, DEPUTY CHIEF  
DIVISION OF NATURAL RESOURCES  
LAW ENFORCEMENT SECTION  
ROOM 840, BLDG. 3, CAPITOL COMPLEX  
CHARLESTON, WEST VIRGINIA 25305

THE ISSUES TO BE HEARD SHALL BE LIMITED TO THIS PROPOSED RULE.

  
JOHN B. RADER, DIRECTOR

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

\$3.40

**SUMMARY OF PROPOSED RULE  
CONCERNING**

The purpose of this proposed rule is to establish a no wake speed zone on a three mile section of Fishing Creek, a tributary of the Ohio River. This no wake speed zone was requested by the Prosecuting Attorney of Marshall County acting in behalf of the Marshall County Commission. This is a revision of an existing rule that previously established a no wake speed zone at St. Marys, West Virginia.

**PREAMBLE TO A PROPOSED RULE  
CONCERNING  
SPECIAL MOTORBOATING RULES**

**AGENCY:** Bureau of Commerce, Division of Natural Resources

**REGULATION:** Title 58, Series 27, "SPECIAL MOTORBOATING RULES"

**ACTION:** Filing of a proposed legislative rule.

**SUMMARY:** Amends current rule by establishing a new no wake zone on the first three miles of Fishing Creek in Marshall County. Establishment of this zone will protect life, limb and property of visitors to the area as well as those that reside along Fishing Creek.

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## FISCAL NOTE FOR PROPOSED RULE

**Rule Title:** Special Motorboating Rules

**Type of Rule**      X      **Legislative**                  **Interpretive**                  **Procedural**

**Agency**    Bureau of Commerce, Division of Natural Resources

**Address**    Building 3, Capitol Complex

Charleston, West Virginia 25305

**1. Effect of Proposed Rule**

	ANNUAL			FISCAL YEAR	
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTE R
<b>ESTIMATED TOTAL COST</b>	NONE				
<b>PERSONAL SERVICES</b>	NONE				
<b>CURRENT EXPENSE</b>	NONE				
<b>REPAIRS &amp; ALTERATIONS</b>	NONE				
<b>EQUIPMENT</b>	NONE				
<b>OTHER</b>	NONE				

**2. Explanation of above estimates:** There will be no fiscal impact in the implementation of these Rules.

**3. Objectives of these rules:** The objective of these rules is to establish a no wake speed zone on the first three miles of Fishing Creek in Marshall County in order to protect the lives and property of others using and living in the area.

**Rule Title:** Special Motorboating Rules

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**4. Explanation of overall Economic Impact of Proposed Rule.**

There is no economic impact expected from promulgation of this rule.

**A. Economic Impact on State Government:**

None

**B. Economic Impact on Political Subdivisions; Specific Industries; Specific Groups of Citizens:**

None

**C. Economic Impact on Citizens/Public at Large:**

None

**Date:** July 31, 1998

**Signature of Agency or  
Authorized Representative:**

  
\_\_\_\_\_  
JOHN B. RADER, DIRECTOR

FILED

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OFFICE OF THE WEST VIRGINIA  
SECRETARY OF STATE

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

**SERIES 27  
SPECIAL MOTORBOATING REGULATIONS**

**§58-27-1. General.**

1.1. **Scope and Purpose.** -- These regulations establish no wake zones for certain waters of this State.

1.2. **Authority.** -- W. Va. Code §§20-7-22 and 20-7-23.

1.3. **Filing Date.** -- .

1.4. **Effective Date.** --

**§58-27-2. Definitions.**

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

2.2. "Motorboat" means any vessel propelled by an electrical, steam, gas, diesel or other fuel propelled or driven motor, whether or not such motor is the principal source of propulsion, but does not include a vessel that has a valid marine document issued by the United States Bureau of Customs or any successor federal agency.

2.3. "No Wake Speed Zone" means an area restricting motorboats from attaining a speed which would produce a wake that would noticeably disturb other motorboats or other vessels, docks, piers, or any other shoreline facility within the designated area.

**§58-27-3. No Wake Speed Zones.**

3.1. The following areas are designated as no wake speed zones:

3.1.1. The back channel of Middle Island on the Ohio River beginning at Ohio River MP 155.1 and extending four hundred and sixty-eight feet (468 ft.) upstream to the St. Marys city limit. This area is situated entirely within the boundaries of Pleasants County.

3.1.2. Beginning at the mouth of Fishing Creek at it's confluence with the Ohio River and extending upstream approximately 3 miles and ending at the first riffle or obstruction. This area is situated entirely within the boundaries of Marshall County. This zone is seasonal and will be in effect from March 1 through November 1, each year.

**§58-27-4. Posting of Signs.**

4.1. The City of St. Marys, West Virginia, is responsible for purchasing, placing and maintaining the No Wake Zone buoys and informational signs. ~~posting of signs designating the zone.~~ Signs shall meet the approval of the director. Any buoys or other structures placed in the water must conform to U. S. Coast Guard standards for Inland Rivers and, if they would interfere with commercial river traffic, be approved by the U. S. Army Corps of Engineers.

4.2. The Marshall County Commission is responsible for purchasing, placing and maintaining the No Wake Zone buoys and informational signs. No Wake Zone signs shall be erected at the mouth of Fishing Creek and at all locations where watercraft may be launched. The signs shall describe the extent of the no wake zone and shall meet the approval of the Director. Any buoys or other structures placed in Fishing Creek must conform to U. S. Coast Guard standards for Inland Rivers and, if they would interfere with commercial river traffic, be approved by the U. S. Army Corps of Engineers.