

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #3

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE
AND
FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**

AGENCY: Bureau of Commerce, Div. of Natural Resources TITLE NUMBER: 58

CITE AUTHORITY 20-1-7(30), 20-7-22, 20-7-23

AMENDMENT TO AN EXISTING RULE: YES NO

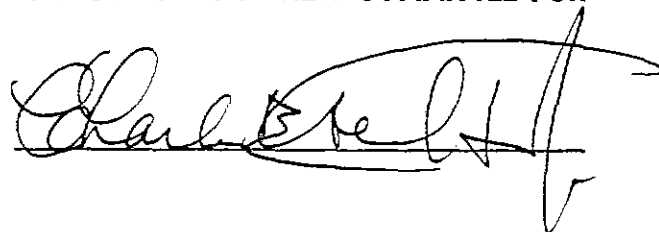
IF YES, SERIES NUMBER OF RULE BEING AMENDED: 25B

TITLE OF RULE BEING AMENDED: Special Boating Regulations

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE FOR THEIR REVIEW.



Circumstances Concerning Changes to
Special Boating Regulations

Agency: Bureau of Commerce, Division of Natural Resources

Rule: Title 58, Series 25B, "Special Boating Regulations"

Circumstances: Additional small impoundments have been added to the State's public recreational waters and these require restrictions in the manner motorboats may be propelled for reasons of human safety and to protect aquatic life.

FISCAL NOTE FOR PROPOSED RULE

Rule Title: Special Boating Regulations
 Type of Rule: X Legislative Interpretive Procedural
 Agency: Division of Natural Resources
 Address: State Capitol Complex
Building 3, Room 812
1900 Kanawha Blvd.
Charleston, WV 25305

1. Effect of Proposed Rule

	ANNUAL			FISCAL YEAR	
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
ESTIMATED TOTAL COST	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0
PERSONAL SERVICES					
REPAIRS & ALTERATIONS					
EQUIPMENT					
OTHER (LICENSE FEES)					

2. Explanation of above estimates:
N/A

3. Objectives of these rules:
Establishes waters where motorboat propulsion restrictions are necessary for user safety and the protection of aquatic life.

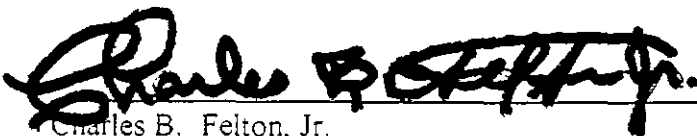
4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impacts 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: 6/5/95



Charles B. Felton, Jr.
 Director

DATE: 7/31/95

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: Charles B. Felton, Jr.

LEGISLATIVE RULE TITLE: Special Boating Regulations

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

2. a. Date filed in State Register with Notice of Hearing
June 6, 1995

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

Statewide newsrelease explaining rule and availability for review.

c. Date of Hearing(s) n/a

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)

July 31, 1995

f. Name and phone number(s) of agency person(s) to contact for additional information:

Gordon C. Robertson, Deputy Chief

Division of Natural Resources

Wildlife Resources Section

Capitol Complex, Bldg. 3, Room 825

Charleston, WV 25305

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: 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

Summary of a Proposed Rule Concerning
Special Boating Regulations

The proposed rule makes the organizational name change from Department to Division and adds additional waters which require restrictions to motorboat propulsion for reasons of safety and to minimize the damage to aquatic life and habitats.

TITLE 47 58
INTERPRETIVE LEGISLATIVE RULES
~~DEPARTMENT NATURAL RESOURCES BUREAU OF COMMERCE~~
DIVISION OF NATURAL RESOURCES

FILED

JUL 31 4 10 PM '95

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

SERIES 25B
SPECIAL BOATING REGULATIONS

§4758-25B-1. General.

1.1. Scope and Purpose. -- These rules provide 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. --

1.4. Effective Date. --

§4758-25B-2. Definitions.

2.1. "Director" means the director of the West Virginia ~~Department~~ 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 thereof.

2.3. "Motorboat" means any vessel propelled by an electrical, steam, gasoline, diesel, or other fuel-propelled or drive motor, whether or not such 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 thereto.

2.4. "Special Regulations" means rules and regulations 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 deems necessary for the public health or safety of persons or property on or in such waters, or for the preservation of useful aquatic life. Special regulations supplement the provisions of Article 7 of Chapter 20 of the West Virginia Code, and the general rules and regulations promulgated thereunder, as they relate to motorboats and other vessels by further limiting, restricting, or prohibiting the operation or navigation of such vessels on a particular government-owned reservoir.

~~S4758~~-25B-3. Special Regulations for Government-owned Reservoirs.

- 3.1. Airport Pond (Raleigh County): No boating allowed.
- 3.2. Anawalt (McDowell County): Electric motors only.
- 3.13. Anderson (Kanawha County): No boating allowed.
- 3.24. ~~Athens (Mercer County): Electric motors only.~~
Barboursville (Cabell County): No boating allowed.
- 3.35. Bear Rocks (Ohio County): Electric motors only.
- 3.46. Beech Fork (Wayne County): Motorboats are limited to a maximum of ten (10) horsepower and must observe no-wake zones marked by buoys or posted signs. Boats having motors greater than ten (10) horsepower must have the propeller removed while operating on this lake. Motorboats and other vessels may not enter restricted areas marked by buoys or posted signs.
- 3.57. Berwind (McDowell County): Electric motors only.
- 3.68. Big Ditch (Webster County): Electric motors only.
- 3.79. Big Run (Marion County): Electric motors only.

- 3.810. Bluestone (Summers County): Motorboats must observe no-wake zones and speed limit zones marked by buoys or posted signs. Motorboats and other vessels may not enter restricted areas marked by buoys or posted signs.
- 3.911. Boley (Fayette County): No motorboats allowed.
- 3.1012. Brandywine (Pendleton County): Electric motors only.
- 3.1113. Brushy Fork (Site 19) (Pendleton County): Electric motors only.
- 3.1214. Buffalo Fork (Pocahontas County): Electric motors only.
- 3.1315. Burches Run (Marshall County): Electric motors only.
- 3.1416. Burnsville (Braxton County): Motorboats must observe no-wake zones marked by buoys or posted signs. Motorboats and other vessels may not enter restricted areas marked by buoys or posted signs.
- 3.1517. Cacapon (Morgan County): No motorboats allowed.
- 3.1618. Camp Run (Pendleton County): Electric motors only.
- 3.1719. Castleman Run (Brooke and Ohio Counties): Electric motors only.
- 3.1820. Cedar Creek (Gilmer County): No boating allowed.
- 3.1921. Charles Fork (Roane County): Electric motors only.
- 3.2022. Cheat (Monongalia County): No restrictions.
- 3.2123. Chief Cornstalk (Mason County): Electric motors only.

- 3.2224. Chief Logan (Logan County): No boating allowed.
- 3.2325. Conaway Run (Tyler County): Electric motors only.
- 3.2426. Coopers Rock (Monongalia County): Electric motors only.
- 3.2527. Curtisville (Marion County): Electric motors only.
- 3.28 Daltex (Logan County): Electric motors only.
- 3.2629. Doe Run Sub-Impoundment (Taylor County): Electric motors only.
- 3.2730. Dog Run (Harrison County): Electric motors only.
- 3.31. Dunkard Fork (Marshall County): Electric motors only.
- 3.2832. East Lynn (Wayne County): Motorboats must observe no-wake zones marked by buoys or posted signs. Motorboats and other vessels may not enter restricted areas marked by buoys or posted signs.
- 3.2933. Edwards Run (Hampshire County): No boating allowed.
- 3.3034. Elk Two Mile (Site 12) (Kanawha County): No boating allowed.
- 3.3135. Elk Two Mile (Site 13) (Kanawha County): No boating allowed.
- 3.3236. Fitzpatrick (Raleigh County): No boating allowed.
- 3.37. Flat Run (Marion County): Electric motors only.
- 3.3338. Fork Creek (Boone County): Electric motors only.
- 3.3439. Fort Ashby (Mineral County): No boating allowed.

- 3.3540. French Creek (Upshur County): No boating allowed.
- 3.41. Frozencamp - Left Fork (Jackson County): Electric motors only.
- 3.42. Frozencamp - Right Fork (Jackson County). Electric motors only.
- 3.3643. Handley (Pocahontas County): Electric motors only.
- 3.3744. Hawks Nest (Fayette County): No restrictions.
- 3.3845. Horse Creek (Wyoming County): Electric motors only.
- 3.3946. Huey Run (Marion County): Electric motors only.
- 3.4047. Hurricane (Putnam County): No boating allowed.
- 3.4148. James P. Bailey (Mercer County): No boating allowed.
- 3.4249. Jennings Randolph (Mineral County): Motorboats must observe no-wake zones marked by buoys or posted signs. Motorboats and other vessels may not enter restricted areas marked by buoys or posted signs.
- 3.50. Jimmy Lewis (Mercer County): Electric motors only.
- 3.51. Jonathan Larck (Putnam County): No boating allowed.
- 3.4352. Kanawha State Forest (Kanawha County): No boating allowed.
- 3.4453. Kee (Mercer County): Electric motors only.
- 3.54. Kimsey Run (Hardy County): Electric motors only.
- 3.4555. Krodel (Mason County): Electric motors only.
- 3.4656. Larenim (Mineral County): No motorboats allowed.

- 3.4757. Laurel (Mingo County): Electric motors only.
- 3.58. Lick Creek (Wayne County): No boating allowed.
- 3.4859. Little Beaver (Raleigh County): Rental boats only.
- 3.4960. Lumberport (Harrison County): Electric motors only.
- 3.5061. McClintic (Mason County): Electric motors only.
- 3.5162. Middle Wheeling Creek Dam (Ohio County): Electric motors only.
- 3.5263. Miletree (Roane County): No boating allowed.
- 3.64. Mill Creek (Barbour County): Electric motors only.
- 3.65. Mill Creek Site 10 (Jackson County): Motorboats are limited to a maximum of ten (10) horsepower and must observe no-wake zones marked by buoys or posted signs. Boats having motors greater than ten (10) horsepower must have the propeller removed while operating on this lake.
- 3.5366. Moncove (Monroe County): Motorboats are limited to a maximum of five (5) horsepower.
- 3.5467. Mount Storm (Grant County): Motorboats and other vessels may not enter restricted areas marked by buoys or posted signs.
- 3.5568. Mountwood (Wood County): Electric motors only.
- 3.5669. New Creek (Dam Number 14) (Grant County): No boating allowed.
- ~~3.57. New Martinsville (Wetzel County): No boating allowed.~~
- 3.5870. North Bend (Ritchie County): No boating allowed.

3.5971. O'Brien (Site 13) (Jackson County): Motorboats are limited to a maximum of ten (10) horsepower and must observe no-wake zones marked by buoys or posted signs. Boats having motors greater than ten (10) horsepower must have the propeller removed while operating on this lake.

~~3.60. Ona (Cabell County): Electric motors only.~~

3.6172. Pennsboro (Ritchie County): Electric motors only.

~~3.62. Pinnacle (Mercer County): Electric motors only.~~

3.6373. Pipestem (Summers County): Rental boats only.

3.6474. Plum Orchard (Fayette County): Motorboats must observe no-wake zones marked by buoys or posted signs. Only motorboats powered by electric motors are allowed within zones marked by barrels.

~~3.65. Pocatalico (Site 28) (Jackson County): Motorboats are limited to a maximum of ten (10) horsepower and must observe no-wake zones marked by buoys or posted signs.~~

3.6675. R. D. Bailey (Mingo and Wyoming Counties): Motorboats must observe no-wake zones marked by buoys or posted signs. Motorboats and other vessels may not enter restricted areas marked by buoys or posted signs.

3.6776. Ridenour (Kanawha County): No boating allowed.

3.6877. Rock Cliff (Hardy County): Electric motors only.

3.6978. Rollins (Jackson County): Electric motors only.

3.7079. Saltlick #9 (Braxton County): Electric motors only.

3.7180. Seneca (Pocahontas County): Electric motors only.

3.7281. Sherwood (Greenbrier County): Electric motors only.

- 3.7382. Silcott Fork (Roane County): No boating allowed.
- 3.7483. Sleepy Creek (Berkeley County): Electric motors only.
- 3.84. South Mill Creek (Grant County): Electric motors only.
- 3.7585. Spruce Knob (Randolph County): Electric motors only.
- 3.7686. Stephens (Raleigh County): Motorboats must observe no-wake zones marked by buoys or posted signs.
- 3.7787. Stonecoal (Lewis and Upshur Counties): Motorboats are limited to a maximum of ten (10) horsepower and must observe no-wake zones marked by buoys or posted signs. No waterskiing allowed. Boats having motors greater than ten (10) horsepower must have the propeller removed while operating on this lake.
- 3.7888. Stonewall Jackson (Lewis County): Motorboats must observe no-wake zones marked by buoys or posted signs. Motorboats and other vessels may not enter restricted areas marked by buoys or posted signs.
- 3.7989. Summersville (Nicholas County): Motorboats must observe no-wake zones marked by buoys or posted signs. Motorboats and other vessels may not enter restricted areas marked by buoys or posted signs.
- 3.8090. Summit (Greenbrier County): Electric motors only.
- 3.8191. Sutton (Braxton County): Motorboats must observe no-wake zones marked by buoys or posted signs. Motorboats and other vessels may not enter restricted areas marked by buoys or posted signs.
- 3.8292. Teter Creek (Barbour County): Electric motors only.
- 3.8393. Thomas Park (Tucker County): Electric motors only.

3.8494. Tomlinson Run (Hancock County): Electric motors only.

3.8595. Tracy (Ritchie County): Electric motors only.

3.8696. Trout (Hardy County): No motorboats allowed.

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

3.8798. Turkey Run (Jackson County): Electric motors only.

3.8899. Turkey Run (Marshall County): Electric motors only.

3.89100. Tygart (Taylor County): Motorboats must observe no-wake zones marked by buoys or posted signs. Motorboats and other vessels may not enter restricted areas marked by buoys or posted signs.

3.90101. Tygart River Backwaters (Town of Elkins) (Randolph County): Electric motors only.

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

3.103. Wallback (Clay and Roane Counties): Electric motors only.

3.91104. Warden (Hardy County): Electric motors only.

3.92105. Watoga (Pocahontas County): Electric motors only.

3.93106. Westover Park (Monongalia County): No boating allowed.

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

3.94108. Wolf Run (Marshall County): Electric motors only.

3.109. Woodrum (Jackson County): Motorboats are limited to a maximum of ten (10) horsepower and must observe no-wake zones marked by buoys or posted signs. Boats having motors greater than ten (10) horsepower must have the propeller removed while operating on this lake.

§4758-25B-4. Special Regulations for Class A Motorboats.

4.1. Motorboats of Class A must be equipped with the lights required for motorboats of Class 1 in accordance with 47 58 C.S.R. 25 §4.1.5. whenever operated on one of the following bodies of water:

- 4.1.1. Beech Fork Lake.
- 4.1.2. Bluestone Lake.
- 4.1.3. Burnsville Lake.
- 4.1.4. Cheat Lake.
- 4.1.5. East Lynn Lake
- 4.1.6. Jennings Randolph Lake.
- 4.1.7. Kanawha River.
- 4.1.8. Monongahela River.
- 4.1.9. Ohio River.
- 4.1.10. R. D. Bailey Lake.
- 4.1.11. Stonecoal Lake.
- 4.1.12. Stonewall Jackson Lake.
- 4.1.13. Summersville Lake.
- 4.1.14. Sutton Lake.
- 4.1.15. Tygart Lake.