

**WEST VIRGINIA
SECRETARY OF STATE
BETTY IRELAND
ADMINISTRATIVE LAW DIVISION**

Form #2

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OFFICE OF THE
SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: DOC, DNR, Wildlife Resources Section TITLE NUMBER: 58

RULE TYPE: Legislative CITE AUTHORITY: 20-1-7(30), 20-7-22 and 20-7-23

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 26

TITLE OF RULE BEING AMENDED: Special Boating Rules

IF NO, SERIES NUMBER OF 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 July 27, 2007 AT ~~1:00 pm.~~ 9:00 a.m. ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS:

Curtis I. Taylor, Chief

DNR, Wildlife Resources Section
1900 Kanawha Blvd., E.

Capitol Complex, Bldg. 3, Room 842
Charleston, WV 25305

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



Authorized Signature

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

**TITLE 58
LEGISLATIVE RULES
DIVISION OF NATURAL RESOURCES**

**SERIES 26
SPECIAL BOATING RULES**

CIRCUMSTANCE

Series 26, Special Boating Rules is being amended to add Dixon Lake and Mason Lake to the list of lakes for special rules for government owned lakes.

**TITLE 58
LEGISLATIVE RULES
DIVISION OF NATURAL RESOURCES**

**SERIES 26
SPECIAL BOATING RULES**

SUMMARY

Dixon Lake is a new 7-acre impoundment and Mason Lake is a new 14-acre impoundment in Monongalia County. The proposed rule would prohibit boating on Dixon and restrict boating with electric motors on Mason. The proposal is intended to address boating safety concerns and potential shoreline erosion problems associated with larger motor use on lakes of this small size.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Series 26, Special Boating Rules

Type of Rule: Legislative Interpretive Procedural

Agency: Bureau of Commerce, Division of Natural Resources

Address: Wildlife Resources Section
Capitol Complex, Bldg. 3, Room 842
Charleston, West Virginia 25305

Phone Number: 304-558-2771 Email: billieshearer@wvdnr.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 be to add Dixon Lake, a new 7-acre impoundment in Monongalia County, to the list of lakes restricting boats and to add Mason Lake a new 14-acre impoundment in Monongalia county to the list of lakes restricted to electric motors only in Series 26, Section 58-26-3. This proposed rule would not have a fiscal impact upon state governments.

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	0.00	0.00	0.00
Current Expenses	0.00	0.00	0.00
Repairs & Alterations	0.00	0.00	0.00
Assets	0.00	0.00	0.00
Other	0.00	0.00	0.00
2. Estimated Total Revenues	0.00	0.00	0.00

Rule Title: Series 26, Special Boating Rules

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.

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.

While the addition of these lakes to the special boating rules may impact boaters and anglers, this change in all likelihood will not have a substantial fiscal impact on state costs or revenues.

Date: 6/26/07

Signature of Agency Head or Authorized Representative

Tracy M. Goetz

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

**SERIES 26
SPECIAL BOATING RULES**

§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. -- West Virginia Code §20-1-7(30), §20-7-22, and §20-7-23.

1.3. Filing Date. -- ~~April 9, 2007~~

1.4. Effective Date. -- ~~April 9, 2007~~

§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 West Virginia 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 trailorable 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.
- 3.289. Doe Run Sub-Impoundment (Taylor County): Electric motors only.
- 3.2930. Dog Run (Harrison County): Electric motors only.
- 3.301. Dunkard Fork (Marshall County): Electric motors only.
- 3.312. 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.
- 3.323. Edwards Run (Hampshire County): No boating allowed.
- 3.334. 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.
- 3.345. Elk Two Mile (Site 12) (Kanawha County): No boating allowed.
- 3.356. Elk Two Mile (Site 13) (Kanawha County): No boating allowed.
- 3.367. Elk Two Mile (Site 14) (Kanawha County): No boating allowed.
- 3.378. Fitzpatrick (Raleigh County): No boating allowed.
- 3.389. Flat Run (Marion County): Electric motors only.

- 3.3940. Fort Ashby (Mineral County): No boating allowed.
- 3.401. French Creek (Upshur County): No boating allowed.
- 3.412. Frozencamp - Left Fork (Jackson County): Electric motors only.
- 3.423. Frozencamp - Right Fork (Jackson County): Electric motors only.
- 3.434. Handley (Pocahontas County): Electric motors only.
- 3.445. Hawks Nest (Fayette County): No restrictions.
- 3.456. Horse Creek (Wyoming County): Electric motors only.
- 3.467. Huey Run (Marion County): Electric motors only.
- 3.478. Hurricane (Putnam County): No boating allowed.
- 3.489. James P. Bailey (Mercer County): No boating allowed.
- 3.4950. 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.
- 3.501. Jimmy Lewis (Mercer County): Electric motors only.
- 3.512. Jonathan Larek (Putnam County): No boating allowed.
- 3.523. Kanawha State Forest (Kanawha County): No boating allowed.
- 3.534. Kee (Mercer County): Electric motors only.
- 3.545. Kimsey Run (Hardy County): Electric motors only.
- 3.556. Krodel (Mason County): Electric motors only.
- 3.567. Larenim (Mineral County): No motorboats allowed.
- 3.578. Laurel (Mingo County): Electric motors only.
- 3.589. Lick Creek (Wayne County): No boating allowed.
- 3.5960. Little Beaver (Raleigh County): Rental boats only.
- 3.601. Logan County Airport (Logan County): No boating allowed.

- 3.642. Lumberport (Harrison County): Electric motors only.
- 3.623. Mason (Monongalia County): Electric motors only.
- 3.624. McClintic Ponds (Mason County): Electric motors only.
- 3.635. Middle Wheeling Creek (Ohio County): Electric motors only.
- 3.646. Miletree (Roane County): Electric motors only.
- 3.657. Mill Creek (Barbour County): Electric motors only.
- 3.668. Moncove (Monroe County): Motorboats are limited to a maximum of five (5) horsepower.
- 3.679. Mountain Valley Lake (Summers County): Electric motors only.
- 3.6870. Mount Storm (Grant County): Motorboats and other vessels may not enter restricted areas marked by buoys or posted signs.
- 3.6971. Mountwood (Wood County): Electric motors only.
- 3.702. New Creek (Dam Number 14) (Grant County): No boating allowed.
- 3.743. 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.
- 3.724. North Bend Pond (Ritchie County): No boating allowed.
- 3.735. 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.
- 3.746. Parker Hollow (Hardy County): Electric motors only.
- 3.757. Pennsboro (Ritchie County): Electric motors only.
- 3.768. Pipestem (Summers County): Rental boats only.

3.779. 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.

3.7880. Poorhouse Pond (Berkeley County): Rental boats only.

3.7981. 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.

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

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

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

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

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

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

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

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

3.8890. Sleepy Creek (Berkeley County): Electric motors only.

3.8991. South Mill Creek (Grant County): Electric motors only.

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

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

3.924. Stonccoal (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.

3.935. 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.

3.946. 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.

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

3.968. 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.

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

3.98100. Thomas Park (Tucker County): Electric motors only.

3.99101. Tomlinson Run (Hancock County): Electric motors only.

3.1002. Tracy (Ritchie County): Electric motors only.

3.1013. Trout (Hardy County): No motorboats allowed.

3.1024. Tuckahoe (Greenbrier County): Electric motors only.

3.1035. Turkey Run (Jackson County): Electric motors only.

3.1046. Turkey Run (Marshall County): Electric motors only.

3.1057. 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.

3.1068. Tygart River Backwaters (Town of Elkins) (Randolph County): Electric motors only.

3.1079. Upper Cove Run (Hardy County): Electric motors only.

3.10810. 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.

3.10911. Underwood (Cabell County): No boating allowed.

3.1102. Wallback (Clay and Roane counties): Electric motors only.

3.1113. Warden (Hardy County): Electric motors only.

3.1124. Watoga (Pocahontas County): Electric motors only.

3.1135. Westover Park (Monongalia County): No boating allowed.

3.1146. Whetstone (Marion County): Electric motors only.

3.1157. Wolf Run (Marshall County): Electric motors only.

3.1168. 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.