

**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, DIVISION OF NATURAL RESOURCES TITLE NUMBER: 58

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

AMENDMENT TO AN EXISTING RULE: YES X NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 26

TITLE OF RULE BEING AMENDED: SPECIAL BOATING RULES

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.



ROBERT A. REINTSEMA, COMMISSIONER

\$5.00

DATE: July 16, 1997

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: BOC, DNR - WILDLIFE RESOURCES SECTION

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 May 30, 1997

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

Statewide DNR News Release

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)

N/A

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

Gordon Robertson - 304-558-2771

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

CIRCUMSTANCES REQUIRING THE PROPOSED RULE

Series 26, Special Boating Rules is being amended pursuant to legislative direction of 20-7-23(d) to permit the use of boats with electric motors on Miletree Lake in Roane County.

SUMMARY OF THE RULE

This rule provides interpretations and guidance concerning special regulations that govern the operation of motorboats and other vessels on particular waters of the State. This rule is being filed pursuant to the legislative direction of SB 549. SB 549 states that "The director shall immediately promulgate an emergency rule pursuant to the provisions of section fifteen, article three, chapter twenty-nine-a of this code providing for the use of electric motors on the waters of Miletree Lake in Roane County."

FISCAL NOTE FOR PROPOSED RULE

Rule Title: Series 26, Special Boating Rules

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

Agency Division of Natural Resources, Wildlife Resources Section

Address Capitol Complex

Building 3, Room 842

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					
CURRENT EXPENSE					
REPAIRS & ALTERATIONS					
EQUIPMENT					
OTHER					

2. **Explanation of above estimates:** No cost to enact and enforce this rule.

3. **Objectives of these rules:** To permit only boats with electric motors on Miletree Lake in Roane County.

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

A. **Economic Impact on State Government:** None

Rule Title: Series 26, Special Boating Rules

B. Economic Impact on Political Subdivisions; Specific Industries; Specific Groups of Citizens: Permitting boats may result in additional angler days and a positive economic impact on the local economy as anglers purchase additional equipment and supplies.

C. Economic Impact on Citizens/Public at Large: The changes may result in an increase in sales of fishing related supplies.

Date: 5/27/97

**Signature of Agency or
Authorized Representative:**



ROBERT A. REINTSEMA, COMMISSIONER

TITLE 58
LEGISLATIVE RULES
BUREAU OF COMMERCE
DIVISION OF NATURAL RESOURCES

SERIES 26
SPECIAL BOATING RULES

FILED
Jul 25 9 30 AM '97
OFFICE OF WEST VIRGINIA
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. --

1.4. Effective Date. --

§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 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 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 must observe no-wake zones marked by buoys or posted signs. 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. 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): 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.
- 3.11. Boley (Fayette County): No motorboats allowed.
- 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): 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.
- 3.17. 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): Motorboats 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 such 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. Rockhouse (Logan County): Electric motors only.
- 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): 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.
- 3.33. Edwards Run (Hampshire County): No boating allowed.
- 3.34. Elk Two Mile (Site 12) (Kanawha County): No boating allowed.
- 3.35. Elk Two Mile (Site 13) (Kanawha County): No boating allowed.
- 3.36. Fitzpatrick (Raleigh County): No boating allowed.
- 3.37. Flat Run (Marion County): Electric motors only.
- 3.38. Fork Creek (Boone County): Electric motors only.
- 3.39. Fort Ashby (Mineral County): No boating allowed.
- 3.40. 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.
- 3.43. Handley (Pocahontas County): Electric motors only.
- 3.44. Hawks Nest (Fayette County): No restrictions.
- 3.45. Horse Creek (Wyoming County): Electric motors only.
- 3.46. Huey Run (Marion County): Electric motors only.
- 3.47. Hurricane (Putnam County): No boating allowed.
- 3.48. James P. Bailey (Mercer County): No boating allowed.
- 3.49. 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.
- 3.52. Kanawha State Forest (Kanawha County): No boating allowed.
- 3.53. Kee (Mercer County): Electric motors only.
- 3.54. Kimsey Run (Hardy County): Electric motors only.
- 3.55. Krodel (Mason County): Electric motors only.
- 3.56. Larenim (Mineral County): No motorboats allowed.
- 3.57. Laurel (Mingo County): Electric motors only.
- 3.58. Lick Creek (Wayne County): No boating allowed.
- 3.59. Little Beaver (Raleigh County): Rental boats only.
- 3.60. Lumberport (Harrison County): Electric motors only.
- 3.61. McClintic (Mason County): Electric motors only.
- 3.62. Middle Wheeling Creek Dam (Ohio County): Electric motors only.
- 3.63. Miletree (Roane County): ~~No boating allowed.~~ Electric motors only.

- 3.64. Mill Creek (Barbour County): Electric motors only.
- 3.65. Elk Fork (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 or have the motor withdrawn to the maximum trailorable limit while operating on this lake.
- 3.66. Moncove (Monroe County): Motorboats are limited to a maximum of five (5) horsepower.
- 3.67. Mount Storm (Grant County): Motorboats and other vessels may not enter restricted areas marked by buoys or posted signs.
- 3.68. Mountwood (Wood County): Electric motors only.
- 3.69. New Creek (Dam Number 14) (Grant County): No boating allowed.
- 3.70. North Bend (Ritchie County): No boating allowed.
- 3.71. 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 or have the motor withdrawn to the maximum trailorable limit while operating on this lake.
- 3.72. Pennsboro (Ritchie County): Electric motors only.
- 3.73. Pipestem (Summers County): Rental boats only.
- 3.74. 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.
- 3.75. 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.
- 3.76. Ridenour (Kanawha County): No boating allowed.
- 3.77. Rock Cliff (Hardy County): Electric motors only.
- 3.78. Rollins (Jackson County): Electric motors only.
- 3.79. Saltlick #9 (Braxton County): Electric motors only.
- 3.80. Seneca (Pocahontas County): Electric motors only.

- 3.81. Sherwood (Greenbrier County): Electric motors only.
- 3.82. Silcott Fork (Roane County): No boating allowed.
- 3.83. Sleepy Creek (Berkeley County): Electric motors only.
- 3.84. South Mill Creek (Grant County): Electric motors only.
- 3.85. Spruce Knob (Randolph County): Electric motors only.
- 3.86. Stephens (Raleigh County): Motorboats must observe no-wake zones marked by buoys or posted signs.
- 3.87. 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 or have the motor withdrawn to the maximum trailorable limit while operating on this lake.
- 3.88. 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.
- 3.89. 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.
- 3.90. Summit (Greenbrier County): Electric motors only.
- 3.91. 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.
- 3.92. Teter Creek (Barbour County): Electric motors only.
- 3.93. Thomas Park (Tucker County): Electric motors only.
- 3.94. Tomlinson Run (Hancock County): Electric motors only.
- 3.95. Tracy (Ritchie County): Electric motors only.
- 3.96. Trout (Hardy County): No motorboats allowed.
- 3.97. Tuckahoe (Greenbrier County): Electric motors only.
- 3.98. Turkey Run (Jackson County): Electric motors only.

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

3.100. 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.

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

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

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

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

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

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

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

§58-26-4. 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 the Division of Natural Resources Boating Rules, 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; and
- 4.1.15. Tygart Lake.