

**WEST VIRGINIA  
SECRETARY OF STATE**

**JOE MANCHIN, III**

**ADMINISTRATIVE LAW DIVISION**

Form #2

Do Not Mark In This Box

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OFFICE WEST VIRGINIA  
SECRETARY OF STATE

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

AGENCY: Division of Natural Resources TITLE NUMBER: 58

RULE TYPE: Legislative CITE AUTHORITY: WVC §§20-7-22 and 20-7-23

AMENDMENT TO AN EXISTING RULE: YES  NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 27

TITLE OF RULE BEING AMENDED: SPECIAL MOTORBOATING REGULATIONS

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 28, 2006 AT 4:30 p.m. / 10:00 a.m. ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS:

Lt. Colonel D. E. Murphy, Deputy Chief  
Law Enforcement Section  
Division of Natural Resources  
Bldg. 3, Capitol Complex  
Charleston, WV 25305  
(304) 558-2784

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

*Brian Helmick*

Authorized Signature

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

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

**SERIES 27  
SPECIAL MOTORBOATING REGULATIONS**

**SUMMARY**

This rule establishes no wake zones that restrict the operation of motorboats and other vessels in certain areas on the waters of this State. The rule is being amended to incorporate a no wake zone requested by the Wood County Commission in order to improve the safety and enjoyment of all boaters and to help deter damage to the river bank in the area located between the 4.2 and 5.2 mile markers on the Little Kanawha river.

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

**SERIES 27  
SPECIAL MOTORBOATING REGULATIONS**

**CIRCUMSTANCE**

The Wood County Commission requested that the Director establish a no wake zone on a one mile section of the Little Kanawha River located entirely within the boundaries of Wood County. This zone will improve the safety and enjoyment of all boaters and reduce the amount of bank erosion suffered by resident homeowners of Happy Valley.

APPENDIX B

**FISCAL NOTE FOR PROPOSED RULES**

Rule Title: 58-27 Special Motorboating Regulations

Type of Rule:  Legislative  Interpretive  Procedural

Agency: Division of Natural Resources

Address: Bldg. 3, Capitol Complex  
Charleston, WV 25305

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Phone Number: (304) 558-2784 Email: davemurphy@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 implementation of this rule will have no fiscal impact on the state. It is simply designed to modify the behavior of those individuals participating in the activities related to boating in a designated area of the Little Kanawha River located in Wood County.

**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.

<b>FISCAL YEAR</b>			
Effect of Proposal	2005 Increase/Decrease (use "-")	2006 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
<b>1. Estimated Total Cost</b>	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
Equipment	0.00	0.00	0.00
Other	0.00	0.00	0.00
<b>2. Estimated Total Revenues</b>	0.00	0.00	0.00

Rule Title: 58-27 Special Motorboating Regulations

3. **Explanation of above estimates (including long-range effect):**  
Please include any increase or decrease in fees in your estimated total revenues.

There will be no increase in revenue to the Division

### 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.

The implementation of this rule will have no fiscal impact on the state. It is simply designed to modify the behavior of those individuals participating in the activities related to boating in a designated area of the Little Kanawha River located in Wood County.

Date: \_\_\_\_\_

Signature of Agency Head or Authorized Representative

Brian Helmick

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

**PROPOSED RULE**

**SERIES 27  
SPECIAL MOTORBOATING REGULATIONS**

**§58-27-1. General.**

- 1.1. Scope and Purpose. -- This rule establishes 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. -- ~~April 6, 2004.~~
- 1.4. Effective Date. -- ~~May 17, 2004.~~

**§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 the 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. The area is situated entirely within the boundaries of Pleasants County. The City of St. Marys, West Virginia, is responsible for purchasing, placing and maintaining the No Wake Zone buoys and informational signs. Signs

shall meet the approval of the director. Any buoys or other structures placed in the water shall 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;

3.1.2. Beginning at the mouth of Fish 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 is in effect from March 1 through November 1, each year. 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 Fish 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 Fish Creek shall 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; and

3.1.3. Beginning at the mouth of Fishing Creek at it's confluence with the Ohio River and extending upstream approximately six-tenths (0.6) of a mile to the Route 2 Bridge. This area is situated entirely within the boundaries of the City of New Martinsville, West Virginia. The City of New Martinsville, West Virginia, is responsible for purchasing, placing and maintaining the No Wake Zone buoys and informational signs. Signs shall meet the approval of the director. Any buoys or other structures placed in the water shall conform to the 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.

3.1.4. Beginning at the upstream edge of Pier 54 Marina at the first pier of Old Lock Six and continuing downstream on the northern side of the Kanawha River for approximately 1500 feet to the last pier of Old Lock Six and extending out into the Kanawha River 80 feet from the northern riverbank. This area is situated entirely within the boundaries of the City of South Charleston, West Virginia. The City of South Charleston, West Virginia, is responsible for purchasing, placing and maintaining the No Wake Zone buoys and informational signs. Signs shall meet the approval of the director. Any buoys or other structures placed in the water shall conform to the U. S. Coast Guard Standard for Inland Rivers and, if they would interfere

with commercial river traffic, be approved by the U. S. Army Corps of Engineers.

3.1.5. Beginning at the Interstate -77 (I-77) bridge located at mile marker 4.2, on the Little Kanawha River and extending upstream approximately one (1) mile to the sharp turn in the river at mile marker 5.2. This area is situated entirely within the boundaries of the Wood County, West Virginia. The Wood County Commission is responsible for purchasing, placing and maintaining the No Wake Zone buoys and informational signs. Signs shall be erected on the banks of the Little Kanawha River at mile markers 4.2, and 5.2, and at all locations within the no wake zone 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 the water shall conform to the 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.