



WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

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Office of West Virginia
Secretary Of State

NOTICE OF RULE MODIFICATION OF A PROPOSED RULE

AGENCY: Natural Resources

RULE TYPE: Legislative

TITLE-SERIES: 58-26

RULE NAME: SPECIAL BOATING RULES

CITE AUTHORITY: §20-1-7(310), §20-7-22 and §20-7-23

The above proposed Legislative rules, following review by the Legislative Rule Making Review Committee, is hereby modified as a result of review and comment by the Legislative Rule Making Review Committee. The attached modifications are filed with the Secretary of State.

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.

Yes

Wesley H White -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.

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 rules that govern the operation of motorboats and other vessels on particular waters of this State.

1.2. Authority. -- W. Va. Code §§ 20-1-7(~~3031~~), 20-7-22, and 20-7-23.

1.3. Filing Date. -- ~~May 11, 2015.~~

1.4. Effective Date. -- ~~May 11, 2015.~~

1.5. Sunset Provision. -- This rule shall terminate and have no further force or effect upon the expiration of five years from its 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 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.~~ 2.3. "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 W. Va. 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.

2.4. All other terms have the meaning prescribed in W. Va. Code §20-7-11 *et seq.*

§58-26-3. Special Rules for Government-owned Lakes.

3.1. Vessels are permitted on the following government-owned lakes with the following restrictions.

~~3.1.~~ 3.1.1. Airport Pond (Raleigh County): ~~No boating allowed~~ No vessels permitted.

~~3.2.~~ 3.1.2. Anawalt (McDowell County): ~~No boating allowed~~ No vessels permitted.

~~3.3.~~ 3.1.3. Anderson (Kanawha County): ~~No boating allowed~~ No vessels permitted.

~~3.4.~~ 3.1.4. Barboursville (Cabell County): ~~No boating allowed~~ No vessels permitted.

~~3.5.~~ 3.1.5. Bear Rocks (Ohio County): ~~Electric motors only.~~ Motorboat use restricted to electric motors only.

~~3.6.~~ 3.1.6. Beech Fork (Wayne County): Motorboats are limited to a maximum of 10 horsepower and operators must observe no-wake zones marked by buoys or posted signs. Boats having motors greater than 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.~~ 3.1.7. Berwind (McDowell County): ~~Electric motors only.~~ Motorboat use restricted to electric motors only.

~~3.8.~~ 3.1.8. Big Ditch (Webster County): ~~Electric motors only.~~ Motorboat use restricted to electric motors only.

~~3.9.~~ 3.1.9. Big Run (Marion County): ~~Electric motors only.~~ Motorboat use restricted to electric motors only.

~~3.10.~~ 3.1.10. 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.~~ 3.1.11. Boley (Fayette County): ~~Electric motors only.~~ Motorboat use restricted to electric motors only.

~~3.12.~~ 3.1.12. Brandywine (Pendleton County): ~~Electric motors only.~~ Motorboat use restricted to electric motors only.

~~3.13.~~ 3.1.13. Brushy Fork (Site 19) (Pendleton County): ~~Electric motors only.~~ Motorboat use restricted to electric motors only.

~~3.14.~~ 3.1.14. Buffalo Fork (Pocahontas County): ~~Electric motors only.~~ Motorboat use restricted to electric motors only.

~~3.15.~~ Burches Run (Marshall County): ~~Electric motors only.~~

~~3.16.~~ 3.1.15. 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.~~ 3.1.16. Cacapon Recreational Lake (Morgan County): No motorboats ~~allowed~~ permitted.
- 3.1.17. Cacapon Upper Reservoir (Morgan County): No motorboats permitted.
- 3.1.18. Cameron (Marshall County): No vessels permitted.
- ~~3.18.~~ 3.1.19. Camp Run (Pendleton County): ~~Electric motors only.~~ Motorboat use restricted to electric motors only.
- ~~3.19.~~ 3.1.20. Castleman Run (Brooke and Ohio Counties): ~~Electric motors only.~~ Motorboat use restricted to electric motors only.
- ~~3.20.~~ 3.1.21. Cedar Creek (Gilmer County): ~~No boating allowed~~ Rental boats only.
- 3.21. 3.1.22. Charles Fork (Roane County): ~~Electric motors only.~~ Motorboat use restricted to electric motors only.
- ~~3.22.~~ 3.1.23. 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.~~ 3.1.24. Chief Cornstalk (Mason County): ~~Electric motors only.~~ Motorboat use restricted to electric motors only.
- ~~3.24.~~ 3.1.25. Chief Logan (Logan County): ~~No boating allowed~~ No vessels permitted.
- ~~3.25.~~ 3.1.26. Conaway Run (Tyler County): ~~Electric motors only.~~ Motorboat use restricted to electric motors only.
- 3.1.27. Coonskin (Kanawha County): No vessels permitted.
- ~~3.26.~~ 3.1.28. Coopers Rock (Monongalia County): ~~No Boating allowed~~ No vessels permitted.
- ~~3.27.~~ 3.1.29. Curtisville (Marion County): ~~Electric motors only.~~ Motorboat use restricted to electric motors only.
- 3.1.30. Deegan (Harrison): Motorboat use restricted to electric motors only.
- 3.1.31. Dents Run (Marion): Motorboat use restricted to electric motors only.
- ~~3.28.~~ 3.1.32. Dixon (Monongalia County): ~~No Boating allowed~~ No vessels permitted.
- ~~3.29.~~ 3.1.33. Doe Run Sub-Impoundment (Taylor County): Motorboat use restricted to electric motors only.
- ~~3.30.~~ 3.1.34. Dog Run (Harrison County): Motorboat use restricted to electric motors only.

- ~~3.31.~~ 3.1.35. Dunkard Fork (Marshall County): Motorboat use restricted to electric motors only.
- ~~3.32.~~ 3.1.36. 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.
- ~~3.33.~~ 3.1.37. Edwards Run (Hampshire County): ~~No boating allowed~~ No vessels permitted.
- ~~3.34.~~ 3.1.38. Elk Fork (Jackson County): Motorboats are limited to a maximum of 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 10 horsepower must have the propeller removed or have the motor withdrawn to the maximum trailorable limit while operating on this lake.
- ~~3.35.~~ 3.1.39. Elk Two Mile (Site 12) (Kanawha County): ~~No boating allowed~~ No vessels permitted.
- ~~3.36.~~ 3.1.40. Elk Two Mile (Site 13) (Kanawha County): ~~No boating allowed~~ No vessels permitted.
- ~~3.37.~~ 3.1.41. Elk Two Mile (Site 14) (Kanawha County): ~~No boating allowed~~ No vessels permitted.
- 3.1.42. Fairfax Pond (Monongalia County): Motorboat use restricted to electric motors only.
- ~~3.38.~~ 3.1.43. Fitzpatrick (Raleigh County): ~~No boating allowed~~ No vessels permitted.
- ~~3.39.~~ 3.1.44. Flat Run (Marion County): ~~Electric motors only~~ Motorboat use restricted to electric motors only.
- ~~3.40.~~ 3.1.45. Fort Ashby (Mineral County): ~~No boating allowed.~~ Motorboat use restricted to electric motors only.
- ~~3.41.~~ 3.1.46. French Creek (Upshur County): ~~No boating allowed~~ No vessels permitted.
- ~~3.42.~~ 3.1.47. Frozencamp - Left Fork (Jackson County): ~~Electric motors only~~ Motorboat use restricted to electric motors only.
- ~~3.43.~~ 3.1.48. Frozencamp - Right Fork (Jackson County): ~~Electric motors only~~ Motorboat use restricted to electric motors only.
- ~~3.44.~~ 3.1.49. Handley (Pocahontas County): ~~Electric motors only~~ Motorboat use restricted to electric motors only.
- ~~3.45.~~ 3.1.50. Hawks Nest (Fayette County): ~~No restrictions~~ 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.
- 3.1.51. Hinkle (Harrison): Motorboat use restricted to electric motors only.

~~3.46.~~ 3.1.52. Horse Creek (Wyoming County): ~~Electric motors only~~ Motorboat use restricted to electric motors only.

~~3.47.~~ 3.1.53. Huey Run (Marion County): ~~Electric motors only~~ Motorboat use restricted to electric motors only.

~~3.48.~~ 3.1.54. Hurricane (Putnam County): ~~No boating allowed~~ No vessels permitted.

~~3.49.~~ 3.1.55. Indian Rocks (Nicholas County): ~~No boating allowed~~ No vessels permitted.

~~3.50.~~ 3.1.56. James P. Bailey (Mercer County): ~~No boating allowed~~ No vessels permitted.

~~3.51.~~ 3.1.57. 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.

~~3.52.~~ 3.1.58. Jimmy Lewis (Mercer County): ~~Electric motors only~~ Motorboat use restricted to electric motors only.

~~3.53.~~ ~~Jonathan Larck (Putnam County): No boating allowed.~~

~~3.54.~~ 3.1.59. Kanawha State Forest (Kanawha County): ~~No boating allowed~~ No vessels permitted.

~~3.55.~~ 3.1.60. Kee (Mercer County): ~~Electric motors only~~ Motorboat use restricted to electric motors only.

~~3.56.~~ 3.1.61. Kimsey Run (Hardy County): ~~Electric motors only~~ Motorboat use restricted to electric motors only.

~~3.57.~~ 3.1.62. Krodel (Mason County): ~~Electric motors only~~ Motorboat use restricted to electric motors only.

~~3.58.~~ 3.1.63. Larenim (Mineral County): No motorboats allowed.

~~3.59.~~ 3.1.64. Laurel (Mingo County): ~~Electric motors only~~ Motorboat use restricted to electric motors only.

~~3.60.~~ 3.1.65. Lick Creek (Wayne County): ~~No boating allowed.~~ No vessels permitted.

~~3.61.~~ 3.1.66. Little Beaver (Raleigh County): ~~Rental boats only~~ Electric motors only.

~~3.62.~~ 3.1.67. Logan County Airport (Logan County): ~~No boating allowed~~ No vessels permitted.

~~3.63.~~ ~~Lumberport (Harrison County): Electric motors only.~~

~~3.64.~~ 3.1.68. Mason (Monongalia County): ~~Electric motors only~~ Motorboat use restricted to electric motors only.

~~3.65.~~ 3.1.69. McClintic Ponds (Mason County): ~~Electric motors only~~ Motorboat use restricted to electric motors only.

~~3.66.~~ 3.1.70. Middle Wheeling Creek (Ohio County): ~~Electric motors only~~ Motorboat use restricted to electric motors only.

~~3.67.~~ 3.1.71. Miletree (Roane County): ~~Electric motors only~~ Motorboat use restricted to electric motors only.

~~3.68.~~ 3.1.72. Mill Creek (Barbour County): ~~Electric motors only~~ Motorboat use restricted to electric motors only.

3.1.73. Millers Fork (Wayne County): No vessels permitted.

~~3.69.~~ 3.1.74. Moncove (Monroe County): Motorboats are limited to a maximum of five horsepower.

~~3.70.~~ Mountain Valley Lake (Summers County): ~~Electric motors only.~~

~~3.71.~~ 3.1.75. Mount Storm (Grant County): Motorboats and other vessels may not enter restricted areas marked by buoys or posted signs.

~~3.70.~~ 3.1.76. Mountain Valley Lake (Summers County): ~~Electric motors only~~ Motorboat use restricted to electric motors only.

~~3.72.~~ 3.1.77. Mountwood (Wood County): ~~Electric motors only~~ Motorboat use restricted to electric motors only.

3.1.78. Newburg Lake (Preston County): No vessels permitted.

~~3.73.~~ 3.1.79. New Creek (Dam Number 14) (Grant County): ~~No boating allowed~~ Motorboat use restricted to electric motors only.

~~3.74.~~ 3.1.80. North Bend (Ritchie County): Motorboats are limited to a maximum of 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 10 horsepower must have the propeller removed or have the motor withdrawn to the maximum trailorable limit while operating on this lake.

~~3.75.~~ 3.1.81. North Bend Pond (Ritchie County): ~~No boating allowed~~ No vessels permitted.

~~3.76.~~ 3.1.82. O'Brien (Jackson County): Motorboats are limited to a maximum of 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 10 horsepower must have the propeller removed or have the motor withdrawn to the maximum trailorable limit while operating on this lake.

~~3.77.~~ 3.1.83. Parker Hollow (Hardy County): ~~Electric motors only~~ Motorboat use restricted to electric motors only.

3.1.84. Pendleton (Tucker County): No motorboats permitted.

~~3.78.~~ 3.1.85. Pennsboro (Ritchie County): ~~Electric motors only~~ Motorboat use restricted to electric motors only.

3.1.86. Pettigrew (Kanawha County): No motorboats permitted.

~~3.79.~~ 3.1.87. Pipestem (Summers County): ~~Rental boats only~~ Electric motors only.

~~3.80.~~ 3.1.88. 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~~ buoys or posted signs.

~~3.81.~~ 3.1.89. Poorhouse Pond (Berkeley County): ~~Rental boats only~~ No vessels permitted.

~~3.82.~~ 3.1.90. 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.

~~3.83.~~ 3.1.91. Ridenour (Kanawha County): Rental boats only.

~~3.84.~~ 3.1.92. Rock Cliff (Hardy County): ~~Electric motors only~~ Motorboat use restricted to electric motors only.

~~3.85.~~ 3.1.93. Rockhouse (Logan County): ~~Electric motors only~~ Motorboat use restricted to electric motors only.

~~3.86.~~ 3.1.94. Rollins (Jackson County): ~~Electric motors only~~ Motorboat use restricted to electric motors only.

~~3.87.~~ 3.1.95. Saltlick #9 (Braxton County): ~~Electric motors only~~ Motorboat use restricted to electric motors only.

~~3.88.~~ 3.1.96. Seneca (Pocahontas County): ~~Electric motors only~~ Motorboat use restricted to electric motors only.

~~3.89.~~ 3.1.97. Sherwood (Greenbrier County): ~~Electric motors only~~ Motorboat use restricted to electric motors only.

~~3.90.~~ 3.1.98. Silcott Fork (Roane County): ~~No boating allowed~~ No vessels permitted.

~~3.91.~~ 3.1.99. Sleepy Creek (Berkeley County): ~~Electric motors only~~ Motorboat use restricted to electric motors only.

~~3.92.~~ 3.1.100. South Mill Creek (Grant County): ~~Electric motors only~~ Motorboat use restricted to electric motors only.

~~3.93.~~ 3.1.101. Spruce Knob (Randolph County): ~~Electric motors only~~ Motorboat use restricted to electric motors only.

~~3.94.~~ 3.1.102. Stephens (Raleigh County): Motorboat operators must observe no-wake zones marked by buoys or posted signs which are approved by the Director.

~~3.95.~~ 3.1.103. Stonecoal (Lewis and Upshur counties): Motorboats are limited to a maximum of 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.

~~3.96.~~ 3.1.104. 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.

~~3.97.~~ 3.1.105. 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.

~~3.98.~~ 3.1.106. Summit (Greenbrier County): ~~Electric motors only~~ Motorboat use restricted to electric motors only.

~~3.99.~~ 3.1.107. 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.

~~3.100.~~ 3.1.108. Teter Creek (Barbour County): ~~Electric motors only~~ Motorboat use restricted to electric motors only.

~~3.101.~~ 3.1.109. Thomas Park (Tucker County): ~~Electric motors only~~ Motorboat use restricted to electric motors only.

~~3.102.~~ 3.1.110. Tomlinson Run (Hancock County): ~~Electric motors only~~ Motorboat use restricted to electric motors only.

~~3.103.~~ 3.1.111. Tracy (Ritchie County): ~~Electric motors only~~ Motorboat use restricted to electric motors only.

~~3.104.~~ 3.1.112. Trout (Hardy County): ~~No motorboats allowed~~ No vessels permitted.

~~3.105.~~ 3.1.113. Tuckahoe (Greenbrier County): ~~Electric motors only~~ Motorboat use restricted to electric motors only.

~~3.106.~~ 3.1.114. Turkey Run (Jackson County): ~~Electric motors only~~ Motorboat use restricted to electric motors only.

~~3.107.~~ 3.1.115. Turkey Run (Marshall County): ~~Electric motors only~~ Motorboat use restricted to electric motors only.

~~3.108.~~ 3.1.116. 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.

~~3.109.~~ 3.1.117. Tygart River Backwaters (Town of Elkins) (Randolph County): ~~Electric motors only~~ Motorboat use restricted to electric motors only.

~~3.110.~~ Upper Cove Run (Hardy County): Electric motors only.

~~3.111.~~ 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.

~~3.112.~~ 3.1.118. Underwood (Cabell County): ~~No boating allowed~~ No vessels permitted.

3.1.119. Upper Cove Run (Hardy County): Motorboat use restricted to electric motors only.

3.1.120. Upper Deckers (Preston County): Motorboat use restricted to electric motors only.

~~3.111.~~ 3.1.121. Upper Mud River (Lincoln County): Motorboats are limited to a maximum of 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 10 horsepower must have the propeller removed or have the motor withdrawn to the maximum trailorable limit while operating on this lake.

~~3.113.~~ 3.1.122. Wallback (Clay and Roane counties): ~~Electric motors only~~ Motorboat use restricted to electric motors only.

~~3.114.~~ 3.1.123. Warden (Hardy County): ~~Electric motors only~~ Motorboat use restricted to electric motors only.

~~3.115.~~ 3.1.124. Watoga (Pocahontas County): ~~Electric motors only~~ Motorboat use restricted to electric motors only.

~~3.116.~~ 3.1.125. Westover Park (Monongalia County): ~~No boating allowed~~ No vessels permitted.

~~3.117.~~ 3.1.126. Whetstone (Marion County): ~~Electric motors only~~ Motorboat use restricted to electric motors only.

~~3.118.~~ 3.1.127. Wolf Run (Marshall County): ~~Electric motors only~~ Motorboat use restricted to electric motors only.

~~3.119.~~ 3.1.128. Woodrum (Jackson County): Motorboats are limited to a maximum of 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 10 horsepower must have the propeller removed or have the motor withdrawn to the maximum trailorable limit while operating on this lake.

~~3.120.~~ ~~This section does not apply to the Division's law enforcement, emergency and research vessels, when they are operating in an official capacity.~~

3.2. The Division's law enforcement, emergency, and research vessels, when operating in an official capacity, are exempt from the provisions of this rule.

§58-26-4.

4.1. Any person convicted of a violation of this rule is subject to the penalties provided for in W. Va. Code §20-7-9.