



WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

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Office of West Virginia
Secretary Of State

NOTICE OF AN EMERGENCY RULE

AGENCY: Natural Resources

TITLE-SERIES: 58-26

RULE TYPE: Legislative

Amendment to Existing Rule: Yes

RULE NAME: Special Boating Rules

CITE STATUTORY AUTHORITY FOR PROMULGATING EMERGENCY RULE:

§§ 20-1-7(31), 20-7-22, and 20-7-23.

IF THE EMERGENCY RULE WAS PROMULGATED TO COMPLY WITH A TIME LIMIT ESTABLISHED BY CODE OR FEDERAL STATUTE OR REGULATION, CITE THE CODE PROVISION, FEDERAL STATUTE OR REGULATION AND TIME LIMIT ESTABLISHED THEREIN:

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THE ABOVE RULE IS BEING FILED AS AN EMERGENCY RULE TO BECOME EFFECTIVE AFTER APPROVAL BY THE SECRETARY OF STATE OR THE 42ND DAY AFTER FILING, WHICHEVER OCCURS FIRST. THE FACTS AND CIRCUMSTANCES CONSTITUTING THE EMERGENCY ARE AS FOLLOWS:

This emergency rule revision reflects changes made by the passage of HB 2773 during the 2021 Regular Legislative Session relating to the operation of motorboats with motors greater than 10 HP on the Upper Mud River. HB 2773 included a requirement for the Director to file emergency and legislative rule changes.

DOES THIS EMERGENCY RULE REPEAL A CURRENT RULE? No

HAS THE SAME OR SIMILAR EMERGENCY RULE PREVIOUSLY BEEN FILED AND OR EXPIRED? No

SUMMARIZE IN A CLEAR AND CONCISE MANNER THE OVERALL ECONOMIC IMPACT OF THE PROPOSED LEGISLATIVE RULE:

A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:

There is no anticipated economic impact on the revenue of the state.

B. ECONOMIC IMPACT ON SPECIAL REVENUE ACCOUNTS:

There is no anticipated impact on special revenue accounts.

C. ECONOMIC IMPACT ON THE STATE OR ITS RESIDENTS:

No economic impact on the state or its residents is anticipated.

D. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2021 Increase/Decrease (use "-")	2022 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	0	0	0
Personal Services	0	0	0
Current Expenses	0	0	0
Repairs and Alterations	0	0	0
Assets	0	0	0
Other	0	0	0
2. Estimated Total Revenues	0	0	0

E. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT):

There are no anticipated changes to administrative costs or revenues.

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

Yes

Jack M Rife--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(31), 20-7-22, and 20-7-23.

1.3. Filing Date. -- ~~March 27, 2020.~~

1.4. Effective Date. -- ~~March 28, 2020.~~

1.5. Sunset Provision. -- This rule shall terminate and have no further force or effect on ~~March 28, 2025~~August 1, 2027.

§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. "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.

3.1.1. Airport Pond (Raleigh County): No vessels permitted.

3.1.2. Anawalt (McDowell County): No vessels permitted.

3.1.3. Anderson (Kanawha County): No vessels permitted.

3.1.4. Barboursville (Cabell County): No vessels permitted.

3.1.5. Bear Rock (Ohio County): Motorboat use restricted to electric motors only.

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 trailerable limit while operating on this lake. Motorboats and other vessels may not enter restricted areas marked by buoys or posted signs.

3.1.7. Berwind (McDowell County): Motorboat use restricted to electric motors only.

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

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

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.

3.1.11. Boley (Fayette County): Motorboat use restricted to electric motors only.

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

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

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

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.

3.1.16. Cacapon Recreational Lake (Morgan County): No motorboats permitted.

3.1.17. Cacapon Upper Reservoir (Morgan County): No motorboats permitted.

3.1.18. Cameron (Marshall County): No vessels permitted.

3.1.19. Camp Run (Pendleton County): Motorboat use restricted to electric motors only.

3.1.20. Castleman Run (Brooke and Ohio Counties): Motorboat use restricted to electric motors only.

3.1.21. Cedar Creek (Gilmer County): Rental boats only.

3.1.22. Charles Fork (Roane County): Motorboat use restricted to electric motors only.

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.

3.1.24. Chief Cornstalk (Mason County): Motorboat use restricted to electric motors only.

3.1.25. Chief Logan (Logan County): No vessels permitted.

3.1.26. Conaway Run (Tyler County): Motorboat use restricted to electric motors only.

3.1.27. Coonskin (Kanawha County): No vessels permitted.

3.1.28. Coopers Rock (Monongalia County): No vessels permitted.

3.1.29. Curtisville (Marion County): 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.

3.1.32. Dixon (Monongalia County): No vessels permitted.

3.1.33. Doe Run Sub-Impoundment (Taylor County): Motorboat use restricted to electric motors only.

3.1.34. Dog Run (Harrison County): Motorboat use restricted to electric motors only.

3.1.35. Dunkard Fork (Marshall County): Motorboat use restricted to electric motors only.

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.

3.1.37. Edwards Run (Hampshire County): No vessels permitted.

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 trailerable limit while operating on this lake.

3.1.39. Elk Two Mile (Site 12) (Kanawha County): No vessels permitted.

3.1.40. Elk Two Mile (Site 13) (Kanawha County): No vessels permitted.

3.1.41. Elk Two Mile (Site 14) (Kanawha County): No vessels permitted.

- 3.1.42. Fairfax Pond (Monongalia County): Motorboat use restricted to electric motors only.
- 3.1.43. Fitzpatrick (Raleigh County): No vessels permitted.
- 3.1.44. Flat Run (Marion County): Motorboat use restricted to electric motors only.
- 3.1.45. Fort Ashby (Mineral County): Motorboat use restricted to electric motors only.
- 3.1.46. French Creek (Upshur County): No vessels permitted.
- 3.1.47. Frozencamp - Left Fork (Jackson County): Motorboat use restricted to electric motors only.
- 3.1.48. Frozencamp - Right Fork (Jackson County): Motorboat use restricted to electric motors only.
- 3.1.49. Handley (Pocahontas County): Motorboat use restricted to electric motors only.
- 3.1.50. Hawks Nest (Fayette 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.
- 3.1.51. Hinkle (Harrison): Motorboat use restricted to electric motors only.
- 3.1.52. Horse Creek (Wyoming County): Motorboat use restricted to electric motors only.
- 3.1.53. Huey Run (Marion County): Motorboat use restricted to electric motors only.
- 3.1.54. Hurricane (Putnam County): No vessels permitted.
- 3.1.55. Indian Rocks (Nicholas County): No vessels permitted.
- 3.1.56. James P. Bailey (Mercer County): No vessels permitted.
- 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.
- 3.1.58. Jimmy Lewis (Mercer County): Motorboat use restricted to electric motors only.
- 3.1.59. Kanawha State Forest (Kanawha County): No vessels permitted.
- 3.1.60. Kee (Mercer County): Motorboat use restricted to electric motors only.
- 3.1.61. Kimsey Run (Hardy County): Motorboat use restricted to electric motors only.
- 3.1.62. Krodel (Mason County): Motorboat use restricted to electric motors only.

- 3.1.63. Larenim (Mineral County): No motorboats allowed.
- 3.1.64. Laurel (Mingo County): Motorboat use restricted to electric motors only.
- 3.1.65. Lick Creek (Wayne County): No vessels permitted.
- 3.1.66. Little Beaver (Raleigh County): Electric motors only.
- 3.1.67. Logan County Airport (Logan County): No vessels permitted.
- 3.1.68. Mason (Monongalia County): Motorboat use restricted to electric motors only.
- 3.1.69. McClintic Ponds (Mason County): Motorboat use restricted to electric motors only.
- 3.1.70. Middle Wheeling Creek (Ohio County): Motorboat use restricted to electric motors only.
- 3.1.71. Miletree (Roane County): Motorboat use restricted to electric motors only.
- 3.1.72. Mill Creek (Barbour County): Motorboat use restricted to electric motors only.
- 3.1.73. Millers Fork (Wayne County): No vessels permitted.
- 3.1.74. Moncove (Monroe County): Motorboats are limited to a maximum of five horsepower.
- 3.1.75. Mount Storm (Grant County): Motorboats and other vessels may not enter restricted areas marked by buoys or posted signs.
- 3.1.76. Mountain Valley Lake (Summers County): Motorboat use restricted to electric motors only.
- 3.1.77. Mountwood (Wood County): Motorboat use restricted to electric motors only.
- 3.1.78. Newburg Lake (Preston County): No vessels permitted.
- 3.1.79. New Creek (Dam Number 14) (Grant County): Motorboat use restricted to electric motors only.
- 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 trailerable limit while operating on this lake.
- 3.1.81. North Bend Pond (Ritchie County): No vessels permitted.
- 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 trailerable limit while operating on this lake.

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

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

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

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

3.1.87. Pipestem (Summers County): Electric motors only.

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 buoys or posted signs.

3.1.89. Poorhouse Pond (Berkeley County): No vessels permitted.

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.

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

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

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

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

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

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

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

3.1.98. Silcott Fork (Roane County): No vessels permitted.

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

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

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

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.

3.1.103. 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. Boats having motors greater than ten 10 horsepower must have the propeller removed or have the motor withdrawn to the maximum trailerable limit while operating on this lake.

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.

3.1.105. 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.

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

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.

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

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

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

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

3.1.112. Trout (Hardy County): No vessels permitted.

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

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

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

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.

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

3.1.118. Underwood (Cabell County): 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.

3.1.121. 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 trailerable limit~~ operate at no wake speed while operating on this lake.

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

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

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

3.1.125. Westover Park (Monongalia County): No vessels permitted.

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

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

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 trailerable limit while operating on this lake.

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.