



**WEST VIRGINIA SECRETARY OF STATE**

**MAC WARNER**

**ADMINISTRATIVE LAW DIVISION**

**eFILED**

7/30/2021 4:30:40 PM

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: Natural Resources TITLE-SERIES: 58-26  
RULE TYPE: Legislative Amendment to Existing Rule: Yes Repeal of existing rule: No  
RULE NAME: 58-26 Special Boating Rule

**PRIMARY CONTACT**

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CITE STATUTORY AUTHORITY: (§20-7-23 and §20-1-(31))

EXPLANATION OF THE STATUTORY AUTHORITY FOR THE LEGISLATIVE RULE, INCLUDING A DETAILED SUMMARY OF THE EFFECT OF EACH PROVISION OF THE LEGISLATIVE RULE WITH CITATION TO THE SPECIFIC STATUTORY PROVISION WHICH EMPOWERS THE AGENCY TO ENACT SUCH RULE PROVISION:

HB 2773 passed during the 2021 Regular Legislative session, making changes to §20-7-23 relating to the operation of motorboats with motors greater than 10Hp on the Upper Mud River Lake.

IS THIS FILING SOLELY FOR THE SUNSET PROVISION REQUIREMENTS IN W. VA. CODE §29A-3-19(e)? No

IF YES, DO YOU CERTIFY THAT THE ONLY CHANGES TO THE RULE ARE THE FILING DATE, EFFECTIVE DATE AND AN EXTENSION OF THE SUNSET DATE? No

DATE eFiled FOR NOTICE OF HEARING OR PUBLIC COMMENT PERIOD: 6/30/2021

DATE OF PUBLIC HEARING(S) OR PUBLIC COMMENT PERIOD ENDED: 7/29/2021

COMMENTS RECEIVED: Yes

(IF YES, PLEASE UPLOAD IN THE COMMENTS RECEIVED FIELD COMMENTS RECEIVED AND RESPONSES TO COMMENTS)

PUBLIC HEARING: No

(IF YES, PLEASE UPLOAD IN THE PUBLIC HEARING FIELD PERSONS WHO APPEARED AT THE HEARING(S) AND TRANSCRIPTS)

RELEVANT FEDERAL STATUTES OR REGULATIONS: No

WHAT OTHER NOTICE, INCLUDING ADVERTISING, DID YOU GIVE OF THE HEARING?

press release

SUMMARY OF THE CONTENT OF THE LEGISLATIVE RULE, AND A DETAILED DESCRIPTION OF THE RULE'S PURPOSE AND ALL PROPOSED CHANGES TO THE RULE:

This rule provides interpretations and guidance concerning special rules that govern the operation of motorboats and other vessels on particular waters of the state.

Changes to the rule relate to permitting the operation of motorboats with motors larger than 10Hp on the Upper Mud River Lake

STATEMENT OF CIRCUMSTANCES WHICH REQUIRE THE RULE:

HB 2773 passed during the 2021 Regular Legislative Session which required legislative and emergency rules be filed providing for the operation of motorboats with motors greater than 10HP on the Upper Mud River lake.

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 OF THE LEGISLATIVE RULE ON THE STATE OR ITS RESIDENTS:

There is no economic impact on the state or its residents anticipated.

D. FISCAL NOTE DETAIL:

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