



WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

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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: Natural Resources TITLE-SERIES: 58-27

RULE TYPE: Legislative Amendment to Existing Rule: Yes Repeal of existing rule: No

RULE NAME: 58-27 Special Motorboating Regulations

PRIMARY CONTACT

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CITE STATUTORY AUTHORITY: §§20-7-22 and 20-7-23

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:

§20-7-22 and §20-7-23 provide the Director of the Division authority to propose special legislative rules for the operation of motorboats in areas within the territorial limits of any subdivision of this state.

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: 6/28/2022

DATE OF PUBLIC HEARING(S) OR PUBLIC COMMENT PERIOD ENDED: 7/27/2022

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?

Agency 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 establishes no wake zones for certain waters of the state. The changes in this rule are at the request of the Pleasants County Commission and the City of Morgantown. Each entity has proposed changes and placed them out for public comments through their governmental process then made an application to the Division for approval. The Pleasants County Commission wishes to extend a no wake zone to address safety concerns regarding a swimming area adjacent to a campground located along a narrow channel. Both entities are requesting the removal of buoy requirements based on requirement changes by the US Coast Guard.

STATEMENT OF CIRCUMSTANCES WHICH REQUIRE THE RULE:

This rule establishes no wake zones for certain waters of this state.

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 economic impact anticipated on the revenues of state government.

B. ECONOMIC IMPACT ON SPECIAL REVENUE ACCOUNTS:

There is no anticipated change to revenues of the state.

C. ECONOMIC IMPACT OF THE LEGISLATIVE RULE ON THE STATE OR ITS RESIDENTS:

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

D. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2022 Increase/Decrease (use "-")	2023 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 is no anticipated change to revenue or expenditures as a result of the proposed rule changes.

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

Yes

James Bailey -- 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 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. -- ~~May 9, 2022.~~
- 1.4. Effective Date. -- ~~May 9, 2022.~~
- 1.5. Sunset Provision. -- This rule shall terminate and have no further force or effect August 1, ~~2027~~ 2028.

§58-27-2. Definitions.

- 2.1. "Director" means the Director of the Division of Natural Resources.
- 2.2. "Motorboat" means any vessel propelled by an electric, 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 468 feet upstream to the St. Marys city limit northern side of Rymer's Point along the Middle Island Creek waters. 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 its confluence with the Ohio River and extending upstream approximately three 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 its confluence with the Ohio River and extending upstream approximately six-tenths of a mile to the WV State 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. The back channel of Wheeling Island on the Ohio River beginning at approximately Ohio River MP 89.5 (500 block of North Erie Street) extending downstream approximately one mile to Ohio River MP 90.5 (200 block of South Erie Street). This area is situated entirely within the boundaries of Ohio County. The Wheeling Police Department is responsible for purchasing, placing, and maintaining the No Wake Zone buoys and informational signs. Signs shall meet the approval of the Director. No Wake Zone signs shall be erected at the Island Marina boat dock 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 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.

3.1.6. The Monongahela River at the Morgantown waterfront beginning 500 feet downstream from the Westover Bridge extending upstream to the Morgantown Lock and Dam. This area is situated entirely within the boundaries of Monongalia County. The City of Morgantown is responsible for purchasing, placing, and maintaining the No Wake Zone ~~buoys and~~ informational signs. Signs shall meet the approval of the Director. No Wake Zone signs shall be erected at all boat docks and at all locations where watercraft may be launched within the No Wake Zone. ~~Two no wake buoys shall be placed 500 feet downstream from the Westover Bridge outside of the commercial river channel, and one will be placed downstream below the Morgantown Lock and Dam outside the commercial river channel near the lock entrance/exit.~~ 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 Standard for Inland Rivers and, if they would interfere with commercial river traffic, be approved by the U.S. Army Corps of Engineers.

3.1.7. Beginning at the Hartland Dam on the West Fork River and extending upstream approximately 2.3 miles and ending at the municipal corporate limit of Clarksburg. This area is situated entirely within the boundaries of the City of Clarksburg. The City of Clarksburg is responsible for purchasing, placing, and maintaining the No Wake buoys and informational signs. 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.

3.1.8. The Elk River between the Quarrier Street bridge and the Lee Street bridge at approximately Elk River MM 0.25 to 0.40. This area is situated entirely within the boundaries of the City of Charleston, West Virginia. The City of Charleston is responsible for purchasing, placing, and maintaining the No Wake Zone informational signs. Signs shall meet the approval of the Director. No Wake Zone signs shall be erected at all bridge piers and or banks of the river where watercraft may be launched within the No Wake Zone. 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.