

**WEST VIRGINIA
SECRETARY OF STATE**

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #3

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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: WV Department of Natural Resources TITLE NUMBER: 47

CITE AUTHORITY W. Va. Code §§20-1-7(30) and 20-3-2

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: 6

TITLE OF RULE BEING PROPOSED: _____

West Virginia Public Hunting and Fishing Areas

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE FOR THEIR REVIEW.



Ronald R. Potesta
Director



STATE OF WEST VIRGINIA
DEPARTMENT OF NATURAL RESOURCES
CHARLESTON 25305

ARCH A. MOORE, JR.
Governor

April 19, 1988

RONALD R. POTESTA
Director

ROBERT K. PARSONS
Deputy Director

Mr. Richard O. Hartman, Director
Administrative Law Division
West Virginia Secretary of State
Building 1, Suite 157-K
Charleston, West Virginia 25305

Dear Rich,

Will you please correct a typographical error found in an approved rule of the Department of Natural Resources that was filed with your office on March 25, 1988. In the fifth line of Section 3.7 of 47 C.S.R. 6 (West Virginia Public Hunting and Fishing Areas), the word included should instead read include.

Sincerely,

A handwritten signature in cursive script that reads "Jeffrey E. Herrold".

Jeffrey E. Herrold
Regulatory Analyst

FILED
1988 APR 21 AM 9:30
OFFICE OF THE
SECRETARY OF STATE

FISCAL NOTE FOR PROPOSED RULES

Rule Title: West Virginia Public Hunting and Fishing Areas

Type of Rule: Legislative Interpretive Procedural

Agency: West Virginia Department of Natural Resources

Address: 1800 Washington Street East, Charleston, West Virginia 25305

1. Effect of Proposed Rule (Estimated Total Cost)	Increase \$	ANNUAL		FISCAL YEAR	
		Decrease \$	Current \$	Next \$	Thereafter \$
Personal Services					
Current Expense					
Repairs and Alterations			NO CHANGE		
Equipment					
Other					

2. Explanation of Above Estimates:

The proposed rule replaces existing regulations without any additional administrative expenditure.


3. Objectives of These Rules:

The proposed rule replaces existing regulations, the provisions of which are no longer administered by the Department, with new regulations specific to public hunting and fishing areas.

4. Explanation of Overall Economic Impact of Proposed Rule.

- A. Economic Impact on State Government: NO IMPACT
- B. Economic Impact on Political Subdivisions: NO IMPACT
 Economic Impact on Specific Industries: NO IMPACT
 Economic Impact on Specific Groups of Citizens: NO IMPACT
- C. Economic Impact on Citizens/Public at Large: NO IMPACT

Date: February 19, 1988


 Ronald R. Potesta
 Director

DATE: March 25, 1988

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: West Virginia Department of Natural Resources

LEGISLATIVE RULE TITLE: West Virginia Public Hunting
and Fishing Areas

1. Authorizing statute(s) citation:

W. Va. Code §§20-1-7(30) and 20-3-2

2. a. Date filed in State Register with Notice of Hearing:

February 19, 1988

b. What other notice, including advertising, did you give of the public hearing?

An official Department News Release was sent to all West Virginia newspapers and radio and television stations.

c. Date(s) of hearing(s): March 21, 1988

d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.

Attached _____ No comments received X

e. Date you filed in State Register the agency-approved proposed Legislative Rule following public hearing:

March 25, 1988

f. Name and phone number of agency person to contact for additional information:

Mr. Dennis H. Treacy, Administrator
Office of Environmental & Regulatory Affairs
348-2754

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

NOT APPLICABLE

- a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

- b. Date of hearing: _____

- c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

- d. Attach findings and determinations and reasons:

PREAMBLE TO PROPOSED LEGISLATIVE RULE CONCERNING
WEST VIRGINIA PUBLIC HUNTING AND FISHING AREAS

REGULATIONS: Department of Natural Resources, Series 6,
West Virginia Public Hunting and Fishing Areas

AUTHORITY: W. Va. Code §§20-1-7(30) and 20-3-2

ACTION: Agency Approval of Proposed Legislative Rule

SUMMARY: The Department is proposing a new legislative rule concerning State public hunting and fishing areas. This rule would repeal and replace 47 C.S.R. 6 "Public Use of West Virginia State Parks, State Forests, and State Hunting & Fishing Areas" filed June 6, 1985 and effective June 6, 1985 and 47 C.S.R. 8 "Rules and Regulations Governing Shoreline Camping on Government-Owned Reservoir Areas in West Virginia" filed December 30, 1982 and effective January 1, 1983. The existing Series 6 and Series 8 regulations have been largely superceded by recently-promulgated rules of the West Virginia Department of Commerce (144 C.S.R. 1). Today's agency-approved rule establishes regulations to govern the public's use of the State's public hunting and fishing areas.

RESPONSE TO COMMENTS: A public hearing on this proposal was held on March 21, 1988 in Charleston and written comments were received by the Department until 4:30 p.m. on that day. No interested individual attended the hearing and no comments were received concerning this proposal. Therefore, the Department is approving this rule as it was proposed on February 19, 1988.

FILED

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*10 TITLE 47
LEGISLATIVE RULES
DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE ATTORNEY GENERAL
SECRETARY OF STATE

SERIES 6
WEST VIRGINIA PUBLIC HUNTING AND FISHING AREAS

*09 §47-6-1. General.

1.1. Scope and Purpose. -- This legislative rule establishes regulations to govern public use of West Virginia public hunting and fishing areas.

1.2. Authority. -- W. Va. Code §§20-1-7(30) and 20-3-2.

1.3. Filing Date. --

1.4. Effective Date. --

1.5. Repeal of Former Rules. -- This legislative rule repeals and replaces 47 C.S.R. 6 "Public Use of West Virginia State Parks, State Forests, and State Hunting & Fishing Areas" filed June 6, 1985 and effective June 6, 1985 and also repeals and replaces 47 C.S.R. 8 "Rules and Regulations Governing Shoreline Camping on Government-Owned Reservoir Areas in West Virginia" filed December 30, 1982 and effective January 1, 1983.

*09 §47-6-2. Definitions.

2.1. "All-Terrain Vehicle" or "ATV" means any motor-driven vehicle specifically designed for off-road recreational activities that is not subject to vehicle registration requirements established under the provisions of Chapter 17A of the West Virginia Code.

2.2. "Department" means the West Virginia Department of Natural Resources.

2.3. "Public Hunting and Fishing Area" means any public access area, public hunting area, public fishing area, public hunting and fishing area, or public shooting ground administered by the Department. For the purpose of these regulations, the term "public hunting and fishing area" shall also include the West Virginia State Wildlife Center at French Creek.

*09 §47-6-3. General Regulations.

3.1. Abandoned Property. The Department assumes no responsibility for watercraft or other personal property used on a public hunting and fishing area. If such property is abandoned or left unattended for a period in excess of forty-eight (48) hours, the Department may remove and dispose of such property in accordance with applicable provisions of the West Virginia Code.

3.2. Camping. Tent and trailer camping on public hunting and fishing areas is permitted in designated areas only. Any person who occupies a campsite for which there is a rental fee must pay that fee upon entering the public hunting and fishing area.

3.3. Fires. Fires are permitted on public hunting and fishing areas only in fireplaces, fire rings, or grates which have been provided by the State or in areas designated by the Department. Fires must be completely extinguished before a person leaves the site of the fire.

3.4. Livestock Grazing. It is illegal to graze livestock on a public hunting and fishing area without first obtaining a special use permit from the Department.

3.5. Noises and Disturbances. Loud or excessive noise, disorderly conduct, or other disturbances are prohibited on public hunting and fishing areas.

3.6. Property Damage. It is illegal to cut, damage, deface, or destroy any building, rock, shrub, sign, tree, or other property on a public hunting and fishing area.

3.7. Removal of Objects. It is illegal to remove any man-made or natural object from a public hunting and fishing area, except game legally taken during the open seasons prescribed under 47 C.S.R. 11, 12, and 20. Objects which may not be removed include, but are not limited to, animals, plants, rocks and minerals, sand, and historical or archaeological artifacts.

3.8. Vehicles in Public Hunting and Fishing Areas.

3.8.1. The maximum speed limit for vehicles is thirty (30) miles per hour, unless a lower speed limit is posted. All traffic signs and directions must be observed.

3.8.2. The driving of any vehicle in a manner which creates a nuisance to other persons by repetitive or continuous cruising is prohibited.

3.8.3. The use of all-terrain vehicles (ATVs) and snowmobiles is prohibited except where specifically permitted by posted signs on designated roads and trails.

3.8.4. The driving of any vehicle or snowmobile in a manner so as to harass, chase, or annoy any animal or bird is prohibited.

***09 §47-6-4. Special Regulations.**

4.1. Leachtown Fisherman Access Site. Alcoholic beverages are prohibited within the boundaries of the Leachtown Fisherman Access Site.

4.2. Stonecoal Public Hunting and Fishing Area. No person may create a shoreline development of any kind on the lands and waters under the administrative control of the Department within the boundaries of the Stonecoal Public Hunting and Fishing Area.

4.3. West Virginia State Wildlife Center at French Creek. Alcoholic beverages are prohibited within the boundaries of the West Virginia State Wildlife Center.

***09 §47-6-5. Department of Commerce Facilities.**

5.1. The regulations found in 144 C.S.R. 1 are in effect for those recreational facilities and areas administered by the West Virginia Department of Commerce in the following public hunting and fishing areas:

5.1.2. Berwind Lake (McDowell County).

5.1.2. Big Ditch (Webster County).

5.1.3. Bluestone Lake (Mercer and Summers Counties).

5.1.4. Laurel Lake (Mingo County).

5.1.5. Moncove Lake (Monroe County).

5.1.6. Pleasant Creek (Barbour and Taylor Counties).

5.1.7. Plum Orchard Lake (Fayette County).

5.1.8. Teter Creek Lake (Barbour County).

*10 TITLE 47
LEGISLATIVE RULES
DEPARTMENT OF NATURAL RESOURCES

SERIES 6
PUBLIC USE OF WEST VIRGINIA STATE PARKS,
STATE FORESTS, AND STATE HUNTING & FISHING AREAS

*09 §47-6-1. General.

1.1. Scope. -- Legislative rules and regulations relating and applicable to public use of West Virginia state parks, state forests, and state hunting & fishing areas.

1.2. Authority. -- W. Va. Code §20-1-7, §20-3-2, §20-4-3, and §20-4-9.

1.3. Filing Date. -- June 6, 1985.

1.4. Effective Date. -- June 6, 1985.

*09 §47-6-2. General Regulations.

2.1. Destruction of Property or Objects - It is unlawful to cut, deface, damage or destroy any tree, shrub, rock, sign, building or other object, structure or property on a state park, state forest, or state hunting and/or fishing area.

2.2. Removal of Objects - It is unlawful to remove from a state park, state forest, state hunting and/or fishing area, any man-made or natural object, plant, animal (except those acquired legally through hunting or fishing), rock, sand, historical relic, or archaeological artifact.

2.3. Fires - Fires may be lighted only in fireplaces or grates as provided by the state or in areas designated by the superintendent. Fires must be completely extinguished before leaving.

2.4. Birds and Animals - No person may hunt, pursue, catch, capture, kill, or have in his possession any bird or animal, except as provided in Article two, Chapter twenty, Code of West Virginia, 1931, as amended. Public hunting is prohibited on all state park areas.

2.5. Noises and Disturbances - Loud or excessive noises, demonstrations and disturbances are prohibited.

2.6. Camping - Tent and trailer camping is permitted in designated areas only.

2.7. Swimming - Swimming is permitted in designated areas only.

2.8. Garbage and Refuse - Garbage, bottles, cans, paper, and other trash or refuse shall not be dumped or strewn on state property.

2.9. Subleasing - Cabins or campsites shall not be subleased.

2.10. Payment of Rentals, Fees and Charges - It shall be unlawful for any person who occupies a lodge room, cabin, campsite or other like or similar facility, or who uses any other facility or service, in a state park, state forest, or state public hunting and/or fishing area for which there is a rental, fee, or charge to fail to pay the same.

2.11. Occupancy of Camping Area - The length of stay in any camping area is restricted to not more than two (2) consecutive weeks, at which time the camper must vacate the area for at least forty-eight (48) hours: Provided, That the area superintendent may extend the camping period additional days, but only if the campground is not fully occupied and it unlikely to be fully occupied during such extended period. Occupancy cannot be extended by registering under a different name.

2.12. Time of Departure from Areas - Only registered lodge guests, cabin occupants, campers, and those visitors having business in the area are permitted between the closing hour of ten (10:00) p.m. and the opening hour of six (6:00) a.m.

2.13. Pets - Dogs and other pets may be brought into state parks, state forests and state hunting and/or fishing areas: Provided, That they shall be kept on a leash not to exceed ten feet in length around campgrounds, picnic areas, cabins, swimming pools, and other similar public use areas; and, Provided Further, That pets are prohibited in state park lodges.

2.14. Fishing and Boating - Fishing and boating are permitted only under rules in effect in each individual state area and in conformity with the West Virginia Fishing and Boating Regulations.

2.15. Abandoned Property - The Department of Natural Resources assumes no responsibility for watercraft or other

personal property, and if such property is abandoned or left unattended for a period in excess of forty-eight (48) hours, the Department may remove such property from the public use area and dispose of it according to law.

2.16. Business or Commercial Enterprises - Hawking, peddling, soliciting, begging, advertising, or carrying on of any business or commercial enterprise is prohibited without written permission of the director of the Department of Natural Resources.

2.17. Explosive Materials/Uncased Firearms and Bows - no explosive materials or other dangerous substances are permitted in state parks, state forests, or state hunting and/or fishing areas. Uncased firearms, carbon dioxide (CO2) guns, compound bows, strung recurved bows, and broadhead arrows are prohibited, except when the area is open for hunting, or when registered park or forest guests have the written permission of the superintendent to carry uncased, unloaded firearms, carbon dioxide (CO2) guns, compound bows or unstrung recurved bows, or broadhead arrows from lodge, cabin, or campground to open hunting areas.

2.18. Speed Limit - The maximum speed limit is thirty (30) miles per hour, unless a lower speed limit is posted. All traffic and parking regulations must be strictly observed. Continuous and unnecessary driving of motorized vehicles is prohibited.

2.19. Motor-driven Vehicles - All motor-driven vehicles (trail bikes, motor bikes, snowmobiles, etc.) shall be confined to roads usable by four-wheel automotive vehicles or such trails or areas that are designated for their use. It is unlawful for any unauthorized motor-driven vehicle to go behind a gate, cable or other obstruction, or to proceed beyond any sign prohibiting such travel. Any motor-driven conveyance on state-owned areas shall conform with all state laws.

2.20. Operation of Vehicles - No person may operate any vehicle in a manner so as to harass, chase or annoy any animal or bird.

2.21. Breach of Rules or Regulations - Any person may be evicted from a state park, state forest, state hunting and/or fishing area for any breach of the rules and regulations herein set forth or for the breach of any other rule or regulations which may be in effect. All rentals, fees or charges paid shall be forfeited in the event of eviction.

*09 §47-6-3. Special Regulations.

3.1. Stonecoal Public Hunting and Fishing Area.

(a) It is unlawful to create any shoreline developments of any kind on lands and waters under control of the Department of Natural Resources on Stonecoal Public Hunting and Fishing Area.

(b) All motorboats used on the reservoir are limited to a maximum of ten (10) horse power. No-wake zones will be maintained with buoys.

(c) It is unlawful to water ski on this public hunting and fishing area.

3.2. Leachtown Fisherman Access Site - No alcoholic beverages, liquor, wine, or beer are permitted within the boundaries of Leachtown Fisherman Access Site.

3.3. Kanawha State Forest - No alcoholic beverages, liquor, wine, or beer are permitted within the boundaries of Kanawha State Forest.

3.4. Chief Logan State Park - No alcoholic beverages, liquor, wine, or beer are permitted within the boundaries of Chief Logan State Park.

3.5. Tomlinson Run State Park - No alcoholic beverages, liquor, wine, or beer are permitted within the boundaries of Tomlinson Run State Park.

3.6. Little Beaver State Park - No alcoholic beverages, liquor, wine, or beer are permitted within the boundaries of Little Beaver State Park.

3.7. Grandview State Park - No alcoholic beverages, liquor, wine, or beer are permitted within the boundaries of Grandview State Park.

3.8. Valley Falls State Park - No alcoholic beverages, liquor, wine, or beer are permitted within the boundaries of Valley Falls State Park.

3.9. Coopers Rock State Forest - No alcoholic beverages, liquor, wine, or beer are permitted within the boundaries of Coopers Rock State Forest.

3.10. Camp Creek State Forest - No alcoholic beverages, liquor, wine, or beer are permitted within the boundaries of Camp Creek State Forest.

3.11. Mont Chateau State Park - No alcoholic beverages, liquor, wine, or beer are permitted within the boundaries of Mont Chateau State Park.

3.12. Laurel Lake Public Hunting and Fishing Area - No alcoholic beverages, liquor, wine, or beer are permitted within the boundaries of Laurel Lake Public Hunting and Fishing Area.

***09 §47-6-4. Violation, Penalty, and Enforcement.**

4.1. Violation of Rules and Regulations; Penalty - Any person who violates any of the rules and regulations herein set forth shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished in accordance with, and as set forth in, section nine, article seven, chapter twenty of the Code of West Virginia, 1931, as amended.

4.2. Enforcement of Rules and Regulations - It is the responsibility and duty of conservation officer, special conservation officers, and state park, state forest, and state hunting and fishing area superintendents, assistant superintendents, managers and caretakers, by and in accordance with authority vested in them under chapter twenty of the Code of West Virginia, 1931, as amended, and the director of the Department of Natural Resources, to enforce these rules and regulations.

*10 TITLE 47
LEGISLATIVE RULES
DEPARTMENT OF NATURAL RESOURCES

SERIES 8
RULES AND REGULATIONS GOVERNING SHORELINE CAMPING
ON GOVERNMENT-OWNED RESERVOIR AREAS IN WEST VIRGINIA.

*09 §47-8-1. General.

1.1. Scope. -- Legislative rules and regulations relating to public use of shoreline camping areas on government-owned reservoir areas in West Virginia.

1.2. Authority. -- W. Va. Code §20-1-7 and §20-1-7(30).

1.3. Filing Date. -- December 30, 1982.

1.4. Effective Date. -- January 1, 1983.

*09 §47-8-2. General Regulations.

2.1. Use of Shoreline. -- The general public shall have access to and the use of the shoreline at all times.

2.2. Permits and Number of Days. -- All camping shall be by permit in designated areas and numbered sites and shall be limited to fourteen (14) day periods. All permits shall be filled out completely, retained at the campsite at all times, and posted fees shall be paid before occupying camping site. Permits are available on the area or at the wildlife manager's office.

2.3. Erection of Structures. -- The erection of structures other than cloth, fibrous or plastic tents is prohibited.

2.4. Signs. -- Signs other than those erected by authorized personnel are prohibited.

2.5. Campfires. -- Campfires are permitted but shall be contained, attended and controlled.

2.6. Cleanliness of Campsites. -- All campers shall keep their campsites clean and presentable at all times, and shall dispose of combustibles and refuse in accordance with instructions posted. Camps shall be completely razed and the sites clean before departure.

2.7. Abandonment of Personal Property. -- Abandonment of personal property on the lands or waters of the reservoir area is prohibited. Personal property shall not be left unattended by the permittee on the lands and waters of the reservoir, except in accordance with the regulations prescribed. The Department of Natural Resources assumes no responsibility for personal property and if such property is abandoned or left unattended by the permittee for a period in excess of forty eight (48) hours, it shall be disposed of in the manner prescribed by law.

2.8. Removal or Alteration of Natural Features. -- Trees, shrubs, rocks or other natural features shall not be painted, whitewashed, cut, destroyed, removed or altered in any manner.

2.9. Loss or Damage to Equipment. -- The Department of Natural Resources shall not be responsible for loss or damage to equipment maintained in any campsite due to flooding or from any other cause.

2.10. Use of Roads and Trails. -- All roads and trails closed to motorized vehicle travel (including snowmobiles, all terrain vehicles, trail bikes, etc.) shall be closed with a sign, gate, cable or other obstruction and shall be designated on area maps. Maps shall be posted and may be obtained at manager's office in the headquarters area or at the district office.

***09 §47-8-3. Special Regulations.**

3.1. Special Regulations. -- Applicable special regulations shall be posted on designated areas.