

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #2

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: Division of Natural Resources TITLE NUMBER: 58

RULE TYPE: Legislative; CITE AUTHORITY 20-5-2

AMENDMENT TO AN EXISTING RULE: YES X NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 5

TITLE OF RULE BEING AMENDED: Rules governing public use of WV State
Parks, Forests, Wildlife Management Areas under Division of Natural
Resources

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

TITLE OF RULE BEING PROPOSED: _____

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON July 31 1995 AT 9:00 a.m. ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS.

Mr. Cordie O. Hudkins, Chief
Parks and Recreation
State Capitol Complex
Building 6 Room B-451
Charleston, WV 25305

THE ISSUES TO BE HEARD SHALL BE LIMITED TO THIS PROPOSED RULE.

X Cordie O. Hudkins

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

4.60

DNR

West Virginia
Division of
Natural Resources

CHARLES B. FELTON, JR.
Director

PARKS & RECREATION
State Capitol Complex
Building 3, Room 714
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June 22, 1995

MEMORANDUM TO: Judy Cooper, Director
Administrative Law Division

FROM: Charles B. Felton, Jr., Director 
Division of Natural Resources

SUBJECT: Proposed Legislative Rule Changes
Parks and Recreation

Attached are proposed legislative rule changes to be filed on behalf of the Division of Natural Resources, Parks and Recreation section, for consideration during the 1996 Legislative Session.

If you have any questions concerning these proposed changes, please contact Cordie Hudkins, Chief of Parks and Recreation, at 558-2764.

Attachment

CBF\hbg

cc: Harry Price, Executive Secretary
Cordie Hudkins, Chief, Parks and Recreation
Ken Caplinger, Deputy Chief, Parks and Recreation

 West Virginia
Make It Shine

SUMMARY OF PROPOSED RULES

- 2.21 To amend existing rule that reads, "Beer, wine, liquor, and all other alcoholic beverages are prohibited within the boundaries of all historical, day use and natural areas state parks..." This proposed rule adds Blennerhassett Island Historical State Park and Grave Creek Mound State Park which were previously omitted. This proposed rule change also provides exceptions for reserved picnic shelters at Blennerhassett Island and the Blennerhassett museum for private parties that are not open to the general public, and an exception for the Delf Norona Museum at Grave Creek Mound State Park for private parties that are not open to the general public.
- 2.25 Granting the Director of the Division of Natural Resources authority to waive the fees normally charged for one day's use of a picnic shelter or one week's use of a cabin in a state recreation area to an individual or group who donated materials and labor for the construction of such facilities.
- 3.13 To change authority for campground discounts for persons with total and permanent disabilities from W.Va. Code §5B-1-17(c) to W.Va. Code 20-5-19.

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JUN 30 2 18 PM '95

TITLE 58
LEGISLATIVE RULES
DIVISION OF NATURAL RESOURCES

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

SERIES 5
RULES GOVERNING PUBLIC USE OF
WEST VIRGINIA STATE PARKS, STATE FORESTS, AND STATE
WILDLIFE MANAGEMENT AREAS UNDER THE DIVISION OF NATURAL RESOURCES

§144-1-1. General.

1.1 Scope. -- This legislative rule governs the public use of West Virginia state parks, state forests, and recreation areas in state wildlife management areas under the jurisdiction and management of the Division of Natural Resources. They shall not be construed to include the state forests or state wildlife management areas, or any areas or facilities therein, under the jurisdiction and management of the Department of Agriculture or of the Division of Natural Resources, respectively. The rules are necessary to provide for public health, safety and welfare; to protect state property; and to assure state recreational area guests of a safe, beneficial and enjoyable experience.

1.2. Authority. -- W.Va. Code 20-5-2 .

1.3. Filing Date.

1.4. Effective Date.

§144-1-2. - General Rules Governing Public Use of State Parks, State Forests, and Recreational Areas in State Wildlife Management Areas under the Division of Natural Resources.

2.1. It is unlawful to cut, deface, destroy, or drive any object into any tree, shrub, rock, sign, building or other structure or object in a state park, state forest, or state wildlife management area. This rule does not apply to the erection of temporary blinds or tree stands in state wildlife management areas.

2.2. It is unlawful to remove any man-made or natural object, material, substance, plant, animal or historical or archeological relic or artifact from a state park, state forest, or state wildlife management area, except those legally acquired through hunting and fishing in accordance with W. Va. Code §20-2-1 et seq. or upon proper authorization in writing by the Chief of Parks and Recreation, Division of Natural Resources.

2.3. Fires may be lighted only in fireplaces, fire rings or grates provided by the State or in places designated by the area superintendent. Those responsible for a fire shall extinguish it completely before leaving it. Ashes, charcoal briquets and other materials used for a fire shall be left in the fireplace, fire ring, grate or place designated for the fire, or be deposited

in a trash container or a container provided specifically for that purpose but only after they are extinguished. Such materials shall not be strewn over the ground.

2.4. No person shall attempt to or hunt, catch, capture, take, kill, trap, pursue or have in his possession any animal, except as provided in W. Va. Code §20-2-1 et seq. Hunting is prohibited in all state parks; however, legally authorized hunting is permitted in state forests, and state wildlife management areas.

a. No person shall attempt to feed, or feed, any animal in a state park, state forest, or state wildlife management area, except a pet they own, or as part of a wildlife management program officially approved by the state agency having lawful jurisdiction over the program.

2.5. Loud or excessive noise, demonstrations, disturbances, disorderly conduct, profanity, public drunkenness, and the possession or use of controlled substances is prohibited and unlawful.

2.6. Swimming is prohibited in state parks, state forests, and state wildlife management areas, except in places designated for that purpose.

2.7. Recreational activities including, but not limited to, rock climbing, rappeling, hang gliding, parachuting, parasailing, skydiving, spelunking and other like or similar recreational activities that require a high degree of specialized training and equipment are permitted, except where they are prohibited by posted signs. Persons who intend to participate in any such activity shall register at the area superintendent's office before engaging or participating in it and specify where it will take place. Participants in such activities assume full responsibility and liability for any risk or injury related to the activity. Scenic rocks, overlooks and vistas are for providing scenic beauty and aesthetic benefit for guests; therefore, they shall not be used for, or disfigured by, any such recreational activity. This rule does not apply to golf, skiing, horseback riding, hunting or fishing.

2.8. Garbage, waste, bottles, cans, paper, junk, or any other trash or refuse shall not be dumped, deposited or strewn within the boundary of any state park, state forest, or state wildlife management area.

2.9. Lodge rooms, cabins, campsites, picnic shelters, swimming pools and beaches, or any other facility shall not be subleased by guests or patrons.

2.10. It is unlawful for any person not to pay the rental, charge or fee for any facility, service, activity or good he uses or purchases in a state park, state forest, or state wildlife management area.

2.11. Only registered lodge, cabin, and camping guests, licensed hunters, and fishermen while hunting or fishing and persons who have authorized, legitimate business in a state park, state forest, or state wildlife management area are permitted on the premises between the closing hour of 10:00 P.M. and the opening of 6:00 A.M. during which hours they are closed to the general public.

2.12. Dogs and cats are the only pets permitted in state parks, state forests, and state wildlife management areas; however, they are prohibited in state park and state forest cabins and the areas immediately around them, in state park lodges, and in swimming pool and beach swimming areas. In and around campgrounds, picnic areas, playgrounds and other similar intense public use areas, they shall be restrained at all times on a sturdy leash not to exceed ten feet in length and their owner or master shall clean up the pet's excreta, keep it quiet and from disturbing other guests, and be responsible for all damages it causes.

2.13. Explosives, incendiaries, flammables and other dangerous substances are prohibited in state parks, state forests, and state wildlife management areas.

2.14. Uncased firearms, uncased bows and uncased arrows are prohibited in state parks, state forests, and state wildlife management areas, and on state trails, except:

a. When the area is open for hunting (hunting is prohibited in state parks) or when a registered park or forest guest has the written permission of the area superintendent to carry them cased from his lodge room, cabin or campsite to open hunting areas, or to an officially designated rifle, pistol, skeet, trap, target or shooting range.

b. Area superintendents may authorize their use in historical reenactments and plays.

c. The Chief of Parks and Recreation, Division of Natural Resources, may authorize their use for a limited period in conjunction with recreational and arts and crafts programs.

2.15. The Division of Natural Resources assumes no responsibility for any personal property. If personal property is abandoned or left unattended more than forty-eight (48) hours, it will be removed from the public use area and disposed of according to law.

2.16. Hawking, peddling, soliciting, begging, advertising, or carrying on any business or commercial enterprise is prohibited in state parks, state forests, and state wildlife management areas without the written permission of the Director of the Division of Natural Resources.

2.17. Fishing and boating are permitted in state parks, state forests, and state wildlife management areas only in accordance with state law, fishing and boating rules and regulations promulgated thereunder, and rules publicly posted in those areas.

2.18. The speed limit for motor vehicles is thirty (30) miles per hour in state parks, state forests, and state wildlife management areas, except where a lower speed limit is posted. All traffic laws, signs and directions shall be strictly observed. Driving of motor vehicles in any manner that creates a nuisance to any guest by repetitive or continuous cruising or operation is prohibited.

2.19. Motor vehicles including, but not limited to, trail bikes, motorbikes, snowmobiles, and all terrain vehicles may be operated only on public roads usable by automotive vehicles, and on trails and areas designated for their use by the area superintendent by posted signs. It is

unlawful for any unauthorized motor vehicle to go beyond a gate, cable, or other obstruction, or to proceed beyond any sign prohibiting such travel. All motor vehicles in state recreational areas shall obey and comply with all applicable state laws, rules and regulations.

a. Mountain and trail bicycles may be operated only on public roads, trails and other readily recognizable passageways such as logging roads and oil/gas well roads, except that they shall not be operated on horseback riding trails when they are open and operating as horseback riding trails, nor shall they be operated on any trail or road where their use is prohibited by posted signs.

"Mountain and trail bicycles" means any devices designed for operation on mountains and trails having two tandem wheels and pedals for propelling it by human power.

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

2.21. Beer, wine, liquor, and all other alcoholic beverages are prohibited within the boundaries of all historical, day use and natural area state parks, which are Beartown, Berkeley Springs, Blennerhassett Island, except in reserved picnic shelters, Carnifex Ferry Battlefield, Cass Scenic Railroad, Cathedral, Chief Logan, Droop Mountain Battlefield, Fairfax Stone Historic Monument, Grave Creek Mound, Little Beaver, Pinnacle Rock, Point Pleasant Battle Monument, Prickett's Fort, Valley Falls, and Watters Smith Memorial, the Greenbrier River Trail and the North Bend Rail Trail; in the following vacation parks: Audra, Babcock, Camp Creek, Moncove Lake, Tomlinson Run except in reserved picnic shelters, in all boat launch ramp parking areas within the boundary of Bluestone State Park, and in all of Hawks Nest State Park except the lodge; in all state forests, which are Cabwaylingo, Calvin Price, Coopers Rock, Greenbrier, Kanawha, Kumbrabow, Panther, and Seneca; in the following state wildlife management areas: Berwind Lake, Big Ditch Lake, Bluestone, Laurel Lake, Pleasant Creek, Plum Orchard Lake, and Teter Creek Lake; and in those state park areas where they are prohibited by posted signs: **Provided**, That any person, group or association sponsoring a private party at the restaurant at Chief Logan State Park, ~~or~~ the multi-purpose log barn at Prickett's Fort State Park, the museum meeting room at Blennerhassett Island Historical State Park, or the Delf Norona Museum at Grave Creek Mound State Park may provide beer, wine, liquor and all other alcoholic beverages for guests at the private party as long as the party is not open to the general public.

2.22. No person may operate a motor driven vehicle on the Greenbrier River Trail or the North Bend Rail Trail, except (a) those persons who have a vested right of ingress to and egress from the trail, (b) those persons who are authorized by the Director of the Division of Natural Resources to use them in the management, construction, maintenance and operation of the trail and its facilities; or (c) to fight forest fires and handle other emergencies.

2.23. State park and forest or other public land area foundations may apply for and be awarded 50% matching grants of up to \$7,500 per project as part of an "adopt a state park or forest program" for maintenance and improvement projects approved by the Chief of Parks and Recreation. To qualify, a chartered foundation must formally adopt the area for which it was created and for which it is working. A foundation may adopt a park, forest or recreation area with the approval of the Director of the Division of Natural Resources.

2.24. Any person may be evicted from a state park, state forest, or state wildlife

management area for any breach of these rules, or for the breach of any other rule which is in effect governing their use. All rentals, charges and fees are forfeited upon such eviction.

2.25. With prior authorization of the Director of the Division of Natural Resources any individual or group may have free use of a picnic shelter for one day during each calendar year or have free use of a cabin for one week during each calendar year in exchange for donation of materials and labor for the construction of the same. Design and construction must be in accordance with Division standards and specifications. A group shall be defined as a family, business, corporation or non-profit organization whose by-laws are registered with the Secretary of State. The group shall designate a contact person who will be responsible for securing the picnic shelter or cabin reservation each year. The non-transferrable fee waiver will be extended until the amount of the donation equals the loss of revenue from the fee waiver or until the individual dies or the group ceases to exist. Donation value shall be determined by the cost of materials and labor donated and will be divided by the standard rental fee charged at the time construction is completed to determine the expiration date of the fee waiver with the Director being the sole judge of the value of donated labor. Construction of cabins shall be restricted to state parks or state forests which already have cabins. Individuals or groups who are eligible for this fee waiver may make reservations for the use of a picnic shelter or cabin one week in advance of established reservation policies.

§144-1-3. Rules Governing Public Use of Campgrounds in State Parks, State Forests, and State Wildlife Management Areas under the Division of Natural Resources.

3.1. Campsites which are not reserved shall be rented on a first come, first served basis. Campers shall register before occupying a campsite, unless otherwise instructed by posted signs or by other clear means. A campsite is reserved when the rental fee for the site has been paid, which shall be indicated by a camping permit affixed to the numbered campsite post.

3.2. One responsible person who has passed his eighteenth (18th) birthday and who is answerable for the actions and safety of the campsite occupants and liable for any damages caused by them shall be at each rented campsite.

3.3. Camping in any manner is prohibited in state parks, state forests, and state wildlife management areas, except at numbered sites in areas designated for camping. Campground facilities are provided for the exclusive use of registered campers, except that the area superintendent, at his discretion, may permit cabin guests to use campground laundry facilities during periods of low use by campers, preferably at a designated time.

3.4. The length of stay in any camping area shall not exceed fourteen (14) consecutive nights, except after Labor Day until the first day of May of the following year campsites may be rented for longer periods, at the discretion of the area superintendent, when there are vacant campsites. At the end of a rental exceeding fourteen (14) consecutive nights the area superintendent, at his discretion, may request the camper to move to another campsite for conservation and maintenance of the first rental site. In no case may occupancy of a campsite be extended by the camper registering under a different name. Campers not granted a discretionary extension must vacate park campsites for a period of 48 hours.

3.5. Not more than two (2) motor vehicles are permitted on a campsite at any time. A non-family camping group may have only one camping unit (tent, trailer, motor home, camper van, etc.) on its campsite. A family camping group, at the discretion of the area superintendent, may be permitted to have one (1) or two (2) small tents on its campsite in addition to the main camping unit, but in no case may the additional units be ecologically detrimental to the campsite. A family is defined as parents or guardians and their dependent children.

3.6. Campsites shall be vacated by 12:00 noon on the day the campsite rental permit expires, unless the area superintendent extends the time at the request of the camper. No extension may extend beyond 4:00 p.m.

3.7. The campsite rental fee does not include the use of any other facilities or services for which a fee or rental is charged.

3.8. The washing of any equipment, paraphernalia, clothing, pet or human body is prohibited at water fountains and water pumps, and in lakes, ponds, pools and streams. The washing of cooking utensils, tableware, flatware or any other cooking or eating paraphernalia is prohibited at water fountains and water pumps, and in comfort stations, bathhouses and washrooms.

3.9. Hay, straw, boughs, pine needles or other similar materials shall not be kept or used in tents or screened rooms or under shelters for bedding or any other purpose, except the Chief of Parks and Recreation, Division of Natural Resources, may permit the use of hay and straw in conjunction with special events or programs.

3.10. No object may be driven into any tree, shrub, rock, sign, building or other object or structure in a state campground. Trenching or digging in a campsite is prohibited.

3.11. Quiet hours are in effect, and they shall be observed and enforced from 10:00 p.m. to 7:00 a.m. Generators shall not be operated during quiet hours. Motorbike riding is prohibited in camping areas, except to go to and from the campsite.

3.12. No bicycle may be ridden in a campground after dark, unless it is equipped with lights on both its front and rear and the lights are turned on while it is being ridden.

3.13. In accordance with W. Va. Code ~~§5B-1-17(e)~~ 20-5-19, West Virginia residents who are totally and permanently disabled are entitled to a fifty percent discount on campground rental fees from the day after Labor Day until four days prior to Memorial Day only. To qualify for the discount, they shall submit an application and a certification of state residency and disability form to the Director of Natural Resources. The Director shall issue each qualified applicant a permanent campground discount card. The application and qualification forms are available in all Parks and Recreation state recreational areas and the Charleston office.

§144-1-4. Rules Governing Public Use of Swimming Areas in State Parks, State Forests, and State Wildlife Management Areas under the Division of Natural Resources.

4.1. Swimming is prohibited in state parks, state forests, and state wildlife management areas, except in places designated for that purpose. Each person entering a designated swimming area shall pay the admission fee, except cabin and lodge guests are exempt. Children who have not reached their tenth (10th) birthday shall be accompanied at all times they are in the swimming area by a responsible person at least twelve (12) years of age. Persons who have reached their twelfth (12th) birthday are required to purchase an adult ticket for admission to the swimming area.

4.2. Any person may be denied admission to the swimming area who has a skin abrasion, cold, cough, inflamed eye, infection, rash, bandage or cast. Admission shall be denied to any person who is under the influence of alcohol, a controlled substance or medication.

4.3. Glass, food, ice chests, picnic supplies, beer, wine, alcoholic beverages, controlled substances and pets are prohibited in swimming areas. Food and drink purchased from the concession stand may be consumed only in the area designated for that purpose.

4.4. Plastic or rubber rafts, inner tubes, balls, inflatable water wings, and similar paraphernalia, toys and manmade objects of any kind are prohibited within the swimming area, except that exceptions may be made for the handicapped and for organized activities at the discretion of the lifeguard in charge.

4.5. No person is permitted in a swimming pool unless he is dressed in recognized swimming apparel. No street wear, cutoffs or similar apparel may be worn in a swimming pool. Parents and guardians who purchase an adult ticket may enter the swimming area in street clothes to accompany and supervise their children who have not reached their twelfth (12th) birthday and who have purchased a children's ticket. Parents and guardians who enter the swimming area and are not dressed in recognized swimming apparel are prohibited from entering the water. These restrictions do not apply to swimming areas which are natural bodies of water.

4.6. The wearing of indecent swimming or other apparel, the commission of any indecent act, and the commission of any act of indecent exposure are prohibited in the swimming area. Commission of any such act is cause for immediate eviction from the swimming area.

4.7. Only one (1) person is permitted on a diving board at a time. Running, pushing, wrestling, roughhousing or causing undue disturbance, noise or commotion is prohibited in the swimming area.

4.8. Only state employees or other authorized personnel are permitted behind counters where cash registers are located, behind concession stand counters, or in concession stand food storage areas, basket rooms, swimming area storage supply rooms, filtration rooms or chlorine rooms.

4.9. Every person entering a swimming area shall comply with all swimming rules and every instruction or directive of the lifeguards. Any person who fails to comply may be evicted immediately from the swimming area by a lifeguard or other state employee. Any person evicted forfeits the fee he paid to enter the swimming area.

4.10. No refunds may be given for any reason to any person who leaves the swimming area.

§144-1-5. Enforcement of Rules Governing Public Use of State Parks, State Forests, and Recreation Areas in State Wildlife Management Areas under the Division of Natural Resources and Penalties.

5.1. Responsibility for enforcing the rules.

It is the duty and responsibility of Conservation Officers, Special Conservation Officers, and the superintendents, assistant superintendents and managers of state parks, state forests, and state wildlife management areas to enforce all of the provisions of this rule.

5.2. Violation of rules and penalties.

Any person violating any of the provisions of this rule is guilty of a misdemeanor, and, upon conviction thereof, shall be punished in accordance with W. Va. Code §20-7-9.