

**WEST VIRGINIA**  
**SECRETARY OF STATE**  
KEN HECHLER  
**ADMINISTRATIVE LAW DIVISION**

Form #3

Do Not Mark In this Box

**FILED**

Nov 4 4 09 PM '97

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: Division of Natural Resources TITLE NUMBER: 58

CITE AUTHORITY Ch. 20-5-2

AMENDMENT TO AN EXISTING RULE: YES  NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 58 31

TITLE OF RULE BEING AMENDED: Rules Governing Public Use of  
West Virginia State Parks, State Forests, Wildlife  
Management Areas under the Division of Natural Resources.

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: \_\_\_\_\_

TITLE OF RULE BEING PROPOSED: \_\_\_\_\_

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.

  
\_\_\_\_\_  
Authorized Signature

\$4.40

DATE: November 3, 1997

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: John Rader, Director, Division of Natural Resources

LEGISLATIVE RULE TITLE: Rules Governing Public Use of WV State Parks, State Forest, Wildlife Management Areas under the Div. of Natural Resources

1. Authorizing statute(s) citation Ch. 20-5-2

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

No hearing was held - only a 30-day public comment period.

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

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

c. Date of Hearing(s) \_\_\_\_\_

\_\_\_\_\_

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: (be exact)

\_\_\_\_\_

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

Cordie O. Hudkins, Chief (304)-558-2764

DNR - Parks and Recreation

Building 3, Room 713 - Capitol Complex

Charleston, WV 25305

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:

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:

Attached \_\_\_\_\_

## SUMMARY OF PROPOSED RULES

- 2.12 To amend the existing rule that deals with pets in state park and state forest, and state wildlife management areas by removing that part of the rule that prohibits pets in state park and state forest cabins and the areas immediately around them.

## **Statement of Circumstances Which Require This Rule**

For the past several years the state park system has received requests from potential cabin guests who would like to bring family pets on their vacations. The current rule prohibits pets in cabins. Therefore, the park system is attempting to modify this particular rule to allow in cabins. This rule change has the potential to provide a modest increase in cabin revenue.

**Fiscal Note Worksheet**  
(Submit 4 copies)

HD NO \_\_\_\_\_ DRAFT NO \_\_\_\_\_ BILL NO \_\_\_\_\_ RESOLUTION NO \_\_\_\_\_

SUBJECT: Permitting pets in state park and forest cabins FUND NO 3265

SOURCE OF REVENUE: \_\_\_\_\_ GENERAL FUND  SPECIAL \_\_\_\_\_ OTHER (specify) \_\_\_\_\_

COST ESTIMATE BASED ON:  AN ORIGINAL ESTIMATE \_\_\_\_\_ BUDGET BILL \_\_\_\_\_ OTHER (specify) \_\_\_\_\_

INCOME ESTIMATE BASED ON:  AN ORIGINAL ESTIMATE \_\_\_\_\_ BUDGET BILL \_\_\_\_\_ OTHER (specify) \_\_\_\_\_

Show overall effect in items 1 and 2, and in item 3 give explanation of breakdown by fiscal year including long-range effect.

EFFECT OF PROPOSAL	ANNUAL		FISCAL YEAR		
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
1. Estimated Total Cost	\$2,500			\$2,500	
Personal Services					
Current Expenses					
Repairs and Alterations					
Equipment					
Other					
2. Estimated Total Revenue	\$7,500			\$7,500	

3. Explanation of above estimates (including long-range effect):

The park system is getting more and more requests from guests, and potential guests, to permit pets in state park and state forest cabins. Often people will not rent cabins because of this restriction because their pets have become part of their family. While we understand that we will incur some additional housekeeping expense, which we can recover from a minimal deposit, overall, we believe that this rule change will have a positive impact on revenue.

Date 7/15/97 Agency DNR

Authorized Representative  
*Robert M. Smith*

TITLE 58

LEGISLATIVE RULE  
DIVISION OF NATURAL RESOURCES

SERIES 31  
PUBLIC USE OF WEST VIRGINIA STATE PARKS,  
STATE FORESTS, AND STATE WILDLIFE MANAGEMENT AREAS  
UNDER THE DIVISION OF NATURAL RESOURCES

FILED  
Nov 4 4 09 PM '97  
OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

**§58-31-1. 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. This rule shall not be construed to include the state forests or state wildlife management areas, or any areas or facilities in the state forests or state wildlife management areas, under the jurisdiction and management of the Department of Agriculture or other sections of the Division of Natural Resources, respectively. This rule is 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 --

1.5. This rule repeals and replaces Division of Natural Resources' Rule Governing Public Use of West Virginia State Parks, State Forests, and State Wildlife Management Areas, 58 CSR 5.

**§58-31-2. 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. No person shall 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 subsection does not apply to the erection of temporary blinds or tree stands in state wildlife management areas.

2.2. No person shall 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 persons 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. The 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 or her 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.

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 subsection 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 or she 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 the premises 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. Around cabins, 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 is 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 in a case from his or her 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; and

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 by park guests 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 promulgated under the law, 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 person operating motor vehicles in state recreational areas shall obey and comply with all applicable state laws and rules.

a. Mountain and trail bicycles may be operated only on public roads, trails and other readily recognizable passageways such as logging roads and oil or gas well roads. 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. No person shall have in his or her possession beer, wine, liquor, and all other alcoholic beverages within the boundaries of all historical, day use and natural area state parks, which are Beartown, Berkeley

Springs, Carnifex Ferry Battlefield, Cass Scenic Railroad, Cathedral, Chief Logan, Droop Mountain Battlefield, Fairfax Stone Historic Monument, 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 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. The Director of the Division of Natural Resources is authorized to issue special use permits and enter into written agreements with persons who demonstrate to the satisfaction of the Director that they have good cause to utilize a motor driven vehicle on the Greenbrier River Trail or the North Bend Rail Trail. The Director may also authorize persons with legitimate need to utilize motorized vehicles on the trails as authorized in subdivision 2.22.3.

2.22.1. The Director may, upon application in writing and for good cause shown, issue a written special use permit authorizing limited use of motorized vehicles on either the North Bend Rail Trail or Greenbrier River Trail. A separate permit is required for each use. Each permit shall specify the limitation on access, including such things as the date, time not to exceed three days, place, method and distance the applicant will be allowed to have access to the trail. As part of the permit process, the Director shall enter into a written agreement to allow the use of motorized vehicles on the trails. The agreement shall specify the limitations of the use and require, in exchange for such use, that the persons allowed to use motorized vehicles on the trails shall maintain a specified area of the trail for a specified length of time. The terms of the maintenance portion of the agreement shall depend on the length and nature of the use.

2.22.2. Good cause may be shown by (a) those persons in need of limited access to adjacent land that the applicant owns or leases for agriculture purposes and who have demonstrated no other reasonable means to gain entry to the adjacent land; (b) those persons who have a vested right of ingress to and egress from the trail and (c) those persons required by law to plug or reclaim oil or gas wells.

2.22.3. Persons with a legitimate need to use motorized vehicles on the trails are exempt from the permit requirements. A legitimate need is limited to (a) those persons who are authorized by the Director to use motorized vehicles in the management, construction, and maintenance and operation of the trails and facilities and (b) persons and equipment 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 this rule, or for the breach of any other rule which is in effect governing their use. All rentals,

charges and fees are forfeited upon an 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 cabin or picnic shelter. The design and construction of the cabin or picnic shelter must be in accordance with Division standards and specifications. A group is 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 is responsible for securing the picnic shelter or cabin reservation each year. The non-transferrable fee waiver expires when 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. The Director shall determine the donation value by the cost of materials and labor donated and shall divide that value 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 is 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.

**§58-31-3. 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.**

3.1. 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.

3.2. 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.

LISTED CHANGES FOR DIVISION OF NATURAL RESOURCES  
PARKS AND RECREATION SECTION

- A. Rules Governing Public Use of West Virginia State Parks, State Forests, and State Wildlife Management Areas under the Division of Natural Resources - 58-CSR 31
- B. Rules Governing Public Use of West Virginia State Parks, etc. - 58 CSR 31
  - 1. On page two, subsection 2.12, by striking the words "in state park and state forest cabins and the areas immediately around them,"
  - 2. On page two, subsection 2.12, by inserting "cabins"