

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #4

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF RULE MODIFICATION OF A PROPOSED RULE

AGENCY: Division of Natural Resources TITLE NUMBER: 58

CITE AUTHORITY WV Code 20-5-2

AMENDMENT TO AN EXISTING RULE: YES NO

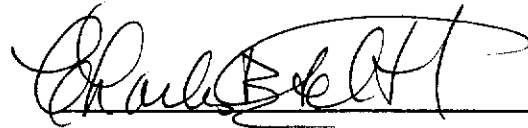
IF YES, SERIES NUMBER OF RULE BEING AMENDED: 33 (formerly Series 5)

TITLE OF RULE BEING AMENDED: Public Use of Swimming Areas in West Virginia State Parks, State Forests, and State 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, FOLLOWING REVIEW BY THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE IS HEREBY MODIFIED AS A RESULT OF REVIEW AND COMMENT BY THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE. THE ATTACHED MODIFICATIONS ARE FILED WITH THE SECRETARY OF STATE.



TITLE 58
LEGISLATIVE RULE
DIVISION OF NATURAL RESOURCES

SERIES 33
PUBLIC USE OF SWIMMING AREAS IN WEST VIRGINIA STATE PARKS,
STATE FORESTS, AND STATE WILDLIFE MANAGEMENT AREAS
UNDER THE DIVISION OF NATURAL RESOURCES

58-33-1. General.

1.1 Scope. -- This legislative rule governs the public use of swimming areas in 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.

58-33-2. Rules Governing Public Use of Swimming Areas in State Parks, State Forests, and State Wildlife Management Areas under the Division of Natural Resources.

2.1 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 from paying the admission fee. 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.

2.2. 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 by the area superintendent to any person who is under the influence of alcohol, a controlled substance or medication.

2.3. 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.

2.4. 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.

2.5. No person is permitted in a swimming pool unless he or she 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. This subsection does not apply to swimming areas which are natural bodies of water.

2.6. 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.

2.7. 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.

2.8. 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.

2.9. 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 or she paid to enter the swimming area.

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

58-33-3. Enforcement of Rules Governing Public Use of Swimming Areas in 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.