

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: West Virginia Division of Tourism and Parks TITLE NUMBER: 144

RULE TYPE: Legislative Rules; CITE AUTHORITY W. Va. Code §5B-1-13a

AMENDMENT TO AN EXISTING RULE: YES X NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: Series 1

TITLE OF RULE BEING AMENDED: Rules Governing Public Use of West Virginia
State Parks, State Forests, and State Hunting and Fishing Areas Under the
Division of Tourism and Parks.

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED:

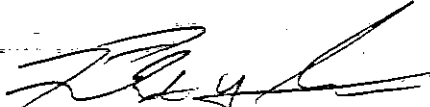
TITLE OF RULE BEING PROPOSED:

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 Friday, January 18, 1991 AT 4:30 p.m.

ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING
ADDRESS.

Capitol Complex
Building 6, Room B-451
Charleston, WV 25305
c/o Donald R. Andrews

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


Rich O. Hartman
Administrative Assistant

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

BRIEF SUMMARY OF PROPOSED RULE CHANGES

The main emergency rule change removed the prohibition on alcoholic beverages within the boundary of Stonewall Jackson Lake State Park.

Second, reference to Grandview State Park was removed because the area was transferred to the National Park Service on October 1, 1990.

Third, the rule title heading, series heading, and section heading were amended to reflect change of agency name.

TITLE 144
LEGISLATIVE RULES
~~DEPARTMENT-OF-COMMERCE~~
DIVISION OF TOURISM AND PARKS

SERIES 1
RULES GOVERNING PUBLIC USE OF
WEST VIRGINIA STATE PARKS, STATE FORESTS, AND STATE
HUNTING AND FISHING AREAS UNDER THE ~~WEST-VIRGINIA-~~
~~DEPARTMENT-OF-COMMERCE~~ DIVISION OF TOURISM AND PARKS

\$144-1-1. General.

1.1. Scope.-- These legislative rules govern the public use of West Virginia state parks, state forests, and recreation areas in state public hunting and fishing areas under the jurisdiction and management of the ~~West-Virginia-Department-of-Commerce~~ Division of Tourism and Parks. They shall not be construed to include the state forests or state hunting and fishing areas, or any areas or facilities therein, under the jurisdiction and management of the Department of Agriculture or of the ~~Department~~ 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 5B-1-13a

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 Public Hunting and Fishing Areas under the ~~West-Virginia-Department-of-Commerce~~ Division of Tourism and Parks.

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 public hunting and fishing area. This rule does not apply to the erection of temporary blinds or tree stands in public hunting 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 public hunting and fishing area, except those legally acquired through hunting and fishing in accordance with Article 2, Chapter 20 of the Code of West Virginia, 1931, as amended, or upon proper authorization in writing by the Director of ~~the Division of~~ Parks and Recreation, Department of Commerce Division of Tourism and Parks.

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 one 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 Article 2, Chapter 20 of the Code of West Virginia, 1931, as amended. Hunting is prohibited in all state parks; however, legally authorized hunting is permitted in state forests, and state public hunting and fishing areas.

2.4.1. No person shall attempt to feed, or feed, any animal in a state park, state forest, or state public hunting and fishing 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 public hunting and fishing 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 and give evidence of having proper training and equipment for the activity. 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 public hunting and fishing 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 public hunting and fishing 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 hunting and fishing area are permitted on the premises between the closing hour of 10:00 P.M. and the opening hour 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 public hunting and fishing 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 its 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 public hunting and fishing areas.

2.14. Uncased firearms, uncased bows and uncased arrows are prohibited in state parks, state forests, and state public hunting and fishing areas, except:

1. 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.
2. Area superintendents may authorize their use in historical reenactments and plays.
3. The Director of the ~~Division of~~ Parks and Recreation, ~~Department of Commerce~~ Division of Tourism and Parks, may authorize their use for a limited period in conjunction with recreational and arts and crafts programs.

2.15. ~~The Department of Commerce~~ Division of Tourism and Parks 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 public hunting and fishing areas without the written permission of the Commissioner of the ~~Department of Commerce~~ Division of Tourism and Parks.

2.17. Fishing and boating are permitted in state parks, state forests, and state public hunting and fishing 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 is thirty (30) miles per hour in state parks, state forests, and state public hunting and fishing 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.

2.19.1. 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 device 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, Carnifex Ferry Battlefield, Cass Scenic Railroad, Cathedral, Chief Logan, Droop Mountain Battlefield, Fairfax Stone Historic Monument, ~~Grandview~~, Little Beaver, Pinnacle Rock, Point Pleasant Battle Monument, Prickett's Fort, Valley Falls, and Watters Smith Memorial, and the Greenbrier River Trail; in the following vacation parks: Audra, Babcock, ~~Stonewall-Jackson-Lake~~, and Tomlinson Run, 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, Camp Creek, Coopers Rock, Greenbrier, Kanawha, Kumbrabow, Panther, and Seneca; in the following state public hunting and fishing areas: Berwind Lake, Big Ditch Lake, Bluestone, Laurel Lake, Moncove Lake, Pleasants Creek, Plum Orchard Lake, and Teter Creek Lake; and in those state park areas where they are prohibited by posted signs. Any person may apply to the Superintendent of the park for a special event permit and pay an application fee for use of firearms, during historical reenactments, or the use of hay, straw, boughs, pine needles or similar materials for special events. The park superintendent may issue a permit to limit areas of use of any of these exceptions and require damage assessments, if necessary.

2.22. No person may operate a motor driven vehicle on the Greenbrier River 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 Commissioner of the Department--of Commerce Division of Tourism and Parks 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. Any person may be evicted from a state park, state forest, or state public hunting and fishing area for any breach of the rules set forth herein, 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.

\$144-1-3. Rules Governing Public Use of Campgrounds in State Parks, State Forests, and State Public Hunting and Fishing Areas under the West-Virginia-Department-of-Commerce Division of Tourism and Parks.

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 shall be at each rented campsite who is answerable for the actions and safety of the campsite occupants and liable for any damages caused by them.

3.3. Camping in any manner is prohibited in state parks, state forests, and state public hunting and fishing 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.

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 the 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 ~~Director of the Division of Parks and Recreation, Department of~~ Commerce Division of Tourism and Parks, 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.

\$144-1-4. Rules Governing Public Use of Swimming Areas in State Parks, State Forests, and State Public Hunting and Fishing Areas under the ~~West-Virginia-Department-of-Commerce~~ Division of Tourism and Parks.

4.1. Swimming is prohibited in state parks, state forests, and state public hunting and fishing 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, 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 man-made 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 have purchased 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 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 Public Hunting and Fishing Areas under the West-Virginia-Department of-Commerce Division of Tourism and Parks 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 public hunting and fishing areas to enforce the rules set forth in this Series 1.

5.2. Violation of rules and penalties.

Any person violating any of the rules set forth in this Series 1 shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished in accordance with Section 9, Article 7, Chapter 20 of the said Code.