

**WEST VIRGINIA
SECRETARY OF STATE**

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #2

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1992 MAR -9 PM 3:47
OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: Division of Culture and History TITLE NUMBER: 82

RULE TYPE: Procedural; CITE AUTHORITY W. Va. Code 29-1-2, 1-5

AMENDMENT TO AN EXISTING RULE: YES ___ NO X

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: 4

TITLE OF RULE BEING PROPOSED: Rules and Regulations Governing Use of
Cultural Resource Files

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 April 8, 1992 AT 4:30 p.m. ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS.

Historic Preservation Section
Division of Cultura and History
Cultural Center
Capitol Complex
Charleston, WV 25305

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



ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

\$ 2.50

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82 CRS 3
TITLE 82
PROCEDURAL RULES
DIVISION OF CULTURE AND HISTORY
SERIES 4
RULES AND REGULATIONS GOVERNING
USE OF CULTURAL RESOURCE FILES

§82-4-1. General.

1.1 Scope. -- These rules and regulations establish policies relative to the use of the cultural resource files kept by the Historic Preservation Section at the Cultural Center, Charleston, West Virginia. In order to maintain the cultural resource files, a fee structure is being implemented. These fees will be used, in part, to update and computerize the files.

1.2. Authority. -- W.Va. Code §29-1-2, 29-1-5

1.3. Filing Date. -- March 9, 1992

1.4. Effective Date. -- April 8, 1992

§82-4-2. Definitions.

As used in these regulations, unless used in a context that clearly requires a different meaning, the term:

2.1. Professionals: as defined in 82 CRS 3, Title 82, Series 3, §82-3-2.

2.2. Avocational Archaeologist: as defined in 82 CRS 3, Title 82, Series 3, §82-3-2.

§82-4-3. Access.

3.1. Some of the cultural resource files contain sensitive information that cannot be disclosed to the public. Therefore, access to the files is limited to individuals who meet one of the following criteria:

(a) Professionals;

(b) Students of an institution of higher learning

engaged in bona fide historical, architectural, or archaeological research;

(c) Avocational archaeologists engaged in legitimate research approved by the State Historic Preservation Officer (SHPO) or a designee; and

(d) Others who receive special, written permission from the SHPO or a designee.

3.2. Professionals engaged in cultural resource investigations in West Virginia must have a resume on file with the HPU and be on the HPU Consultants List.

§82-4-4. File Use.

4.1. Individuals who wish to use the files must call the HPU and make an appointment at least 48 hours before they plan to use the files to ensure that an HPU staff member will be available. No walk-ins will be admitted. The files are available for use between 9:00 - 12:00 and 1:00 - 4:30, Monday through Friday. The files will be closed between 12:00 - 1:00.

(a) There will be a \$50.00 "opening fee" charged to all professional consultants. Individuals will be billed at the completion of the file search. Federal and state agencies, owners obtaining information on their own properties, and holders of HPU grants are exempt from the search charges. WVAS members who are not acting in a professional capacity will be charged a \$25.00 "opening-fee".

(b) Upon arrival, an individual must complete the sign-in form. A staff member will collect specific material from the files for the individual. No one will be allowed to pull material from the files or to refile materials. When an individual is finished with the materials, a staff member will be notified and the staff member will refile the materials.

(c) Material from the files cannot be removed from the HPU office. Material from the files may be duplicated in the HPU office. The first ten copies are free; each additional copy is \$.25.

§82-4-5. Requests for Information.

5.1. Individuals who request information in person, through the mail, or over the phone must meet the same criteria as outlined above.

5.2. If staff members conduct a file search, there will be a \$50.00 "opening-fee" and a \$15.00-per-hour labor charge. This search will include, at a minimum, the following:

(a) A review of the appropriate U.S.G.S. topographic map to ascertain if any recorded cultural resources are present;

(b) A review of the National Register files for properties located in or adjacent to a project area;

(c) A review of the historic inventory files to identify recorded historic structures in or adjacent to the project area; and

(d) A review of available bibliographies for reports on investigations that were carried out previously in or near the project area.

§82-4-6. Submitting Material.

There will be no charge to individuals who submit material for the files.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Rules and Regulations Governing Use of Cultural Resource files

Type of Rule: Legislative Interpretive X Procedural

Agency/ Division Of Culture and History Address Cultural Center
Capitol Complex

1. Effect of Proposed Rule	ANNUAL		FISCAL YEAR		
	Increase	Decrease	Current	Next	Thereafter
Estimated Total Cost	\$	\$	\$	\$	\$
Personal Services	0	0	0	0	0
Current Expense	0	0	0	0	0
Repairs and Alterations	0	0	0	0	0
Equipment	0	0	0	0	0
Other	0	0	0	0	0

2. Explanation of above estimates:

3. Objectives of these rules:

To organize, update, and computerize cultural resource files to comply with state and federal laws and regulations.

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

Will provide funds to accomplish tasks mandated by laws and regulations.

B. Economic Impact on Political Subdivisions; Specific Industries; Specific groups of citizens.

Will have a negligible impact on private companies, e.g., many professionals are involved in projects with budgets greater than \$1,000.

C. Economic Impact on Citizens/Public at Large.

Impact will only be on avocational archaeologists; private citizens and property owners.

Date: 3/9/92

Signature of Agency Head or Authorized Representative


