

**OCTOBER** 17

AGENDA

LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

Tuesday, October 17, 1995, 9:00 a.m. - 1:00 p.m.

Senate Finance Committee Room - M-451

1. Approval of Minutes - Meeting September 11, 1995
2. Review of Legislative Rules:
  - a. Division of Natural Resources  
Special Boating Regulations
  - b. Division of Labor  
Commercial Bungee Jumping Safety Act
  - c. Contractor Licensing Board  
West Virginia Contractor Licensing Act
  - d. Division of Veterans Affairs  
State Home for Veterans-Fiscal
  - e. Solid Waste Management Board  
Rules and Regulations for the Development of  
Comprehensive Litter and Solid Waste Control Plans
  - f. Department of Agriculture  
Integrated Pest Management Programs in Schools and Day  
Care Centers
  - g. Dept. Agriculture  
Frozen Desserts and Imitation Frozen Desserts
  - h. Dept. Agriculture  
Dairy Products and Imitation Dairy Products
  - i. Dept. Agriculture  
West Virginia Plant Pest Act
  - j. Dept. Agriculture  
Inspection of Meat and Poultry
  - k. Environmental Protection/Air Quality  
Acid Rain Provisions and Permits
  - l. Environmental Protection  
Coalbed Methane Wells

- m. Division of Personnel  
Leave Donation Program
- n. State Tax Division  
Business and Occupation Tax
- o. Division of Health  
Cancer Registry
- p. Division of Health  
Standards for Local Boards of Health
- q. Jail and Correctional Facility Standards Commission  
Minimum Standards for Construction, Operation and  
Maintenance of Correctional Facility
- r. Jail and Correctional Facility Standards Commission  
Minimum Standards for Construction, Operation and  
Maintenance of Jails
- s. Secretary of State  
Procedures for Canvassing Electronic Ballot Elections  
Using Punch Card or Optical Scan Ballots
- t. State Election Commission  
Election Expenditures
- u. Division of Banking  
Regulations Pertaining to the WV Consumer Credit and  
Protection Act
- v. Division of Banking  
Regulations Pertaining to the WV Consumer Credit and  
Protection Act and the Industrial Bank and Industrial  
Loan Company Act
- w. Division of Banking  
Regulations Pertaining to the WV Industrial Bank and  
Industrial Loan Company Act
- x. Division of Banking  
Legislative Rule Pertaining to the Legal Lending Limit
- y. Division of Banking  
Permissible Additional Charges In Connection With A  
Consumer Credit Sale
- z. Infrastructure & Jobs Development Council  
Infrastructure & Jobs Development Council Funding  
Rules

aa. Environmental Protection/Air Quality  
To Prevent and Control Air Pollution from Hazardous  
Waste Treatment, Storage, or Disposal Facilities

3. Other Business:

Tuesday, October 17, 1995

9:00 a.m. - 1:00 p.m. Legislative Rule-Making Review Committee  
Code §29A-3-10)

Earl Ray Tomblin  
ex officio nonvoting member

Robert "Chuck" Chambers,  
ex officio nonvoting member

Senate

House

Ross, Chairman  
Grubb, Vice Chairman  
Anderson  
Boley  
Buckalew  
Macnaughtan

Douglas, Chairman  
Linch, Vice Chairman  
Compton  
Faircloth  
Gallagher  
Riggs

The meeting was called to order by Mr. Ross, Co-Chairman. He told the Committee that the rule proposed by the Contractor Licensing Board, West Virginia Contractor Licensing Act, was being placed at the foot of the agenda. He also told the Committee that the rules proposed by the Department of Agriculture, Frozen Desserts and Imitation Frozen Desserts, Dairy Products and Imitation Dairy Products, and the Division of Environmental Protection, Coalbed Methane Wells, had been removed from the agenda.

The minutes of the September 11, 1993 meeting were approved.

Debra Graham, Committee Counsel, explained that the rule proposed by the Division of Natural Resources, Special Boating Regulations, had been laid over at the Committee's September meeting.

Mr. Anderson moved that the proposed rule be approved as modified. The motion was adopted.

Ms. Graham explained that the rule proposed by the Division of Labor, Commercial Bungee Jumping Safety Act, had been laid over at the Committee's September meeting. Chris Quaesbarth, Deputy Commissioner, and Andy Brown, Special Assistant, responded to questions from the Committee.

Ms. Douglas moved that the proposed rule be approved as modified. The motion was adopted.

Ms. Graham explained that the rule proposed by the Division of Veterans Affairs, State Home for Veterans-Fiscal, had been laid over at the Committee's September meeting to allow the Committee to

review the proposed modifications. She distributed copies of the proposed modified rule. The Committee discussed the proposed rule and suggested several additional modifications. Gail Harper, Director, answered questions from the Committee.

Mr. Buckalew moved that Section 4.1 of the proposed rule be modified to state that the resident's fee may not exceed the cost of the resident's care. The motion was adopted.

Ms. Douglas moved that the proposed rule be modified to include those modifications discussed by the Committee and that the proposed rule be approved as modified. The motion was adopted.

Joe Altizer, Associate Counsel, explained that the rule proposed by the Solid Waste Management Board, Rules and Regulations for the Development of Comprehensive Litter and Solid Waste Control Plans, had been laid over at the Committee's September meeting. He briefly reviewed several points from his abstract. Charlie Jordan, Executive Director, responded to questions from the Committee.

Ms. Douglas moved that the proposed rule be approved as modified. The motion was adopted.

Ms. Graham reviewed her abstract on the rule proposed by the Jail and Correctional Facility Standards Commission, Minimum Standards for Construction, Operation and Maintenance of Correctional Facilities, and stated that the Commission has agreed to technical modifications. Frank Shumaker, of the Regional Jail and Correctional Facility Authority, explained the reason for the proposed rule and responded to questions from the Committee.

Mr. Gallagher moved that the proposed rule lie over until the Committee's next meeting and that a representative from the Division of Corrections be invited to attend the meeting and comment on the proposed rule. The motion was adopted.

Ms. Graham reviewed her abstract on the rule proposed by the Jail and Correctional Facility Standards Commission, Minimum Standards for Construction, Operation and Maintenance of Jails, and stated that an incorrect version of the current legislative rule had been used in preparing the proposed rule, requiring technical modifications agreed to by the Commission.

Mr. Gallagher moved that the proposed rule lie over until the Committee's next meeting. The motion was adopted.

Ms. Graham explained that the rule proposed by the Department of Agriculture, Integrated Pest Management Programs in Schools and Day Care Centers, had been laid over at the Committee's September meeting to allow members the opportunity to ascertain the effect the proposed rule would have on their constituents. Bob Frame, Assistant Director of the Pesticide Section, responded to questions from the Committee.

Mr. Gallagher moved that the proposed rule be moved to the foot of the agenda to allow Mr. Frame the opportunity to read the letter received by the Committee from Gene Harrington of the National Pest Control Association. The motion was adopted.

Ms. Graham reviewed her abstract on the rule proposed by the Department of Agriculture, West Virginia Plant Pest Act, and stated that the Department has agreed to technical modifications. Gary Gibson, of the Department of Agriculture, answered questions from the Committee.

Ms. Compton moved that the proposed rule be approved as modified. The motion was adopted.

Ms. Graham reviewed her abstract on the rule proposed by the Department of Agriculture, Inspection of Meat and Poultry, and stated that the Department has agreed to technical modifications.

Ms. Douglas moved that the proposed rule be approved as modified. The motion was adopted.

Mr. Altizer explained the rule proposed by the Division of Environmental Protection/Air Quality, Acid Rain Provisions and Permits.

Ms. Douglas moved that the proposed rule be approved. The motion was adopted.

Mr. Altizer reviewed his abstract on the rule proposed by the Environmental Protection/Air Quality, To Prevent and Control Air Pollution from Hazardous Waste Treatment, Storage, or Disposal Facilities, and stated that the Division has agreed to technical modifications. Dale Farley, Chief, Office of Air Quality, responded to questions from the Committee.

Ms. Douglas moved that the proposed rule be approved as modified. The motion was adopted.

Ms. Graham reviewed her abstract on the rule proposed by the Division of Personnel, Leave Donation Program, and stated that the Division has agreed to technical modifications. She also distributed several modifications being proposed by the Division. Tari McClintock Crouse, Assistant Director, Employee Communications, answered questions from the Committee.

Ms. Douglas moved that the proposed rule be approved as modified. The motion was adopted.

Mr. Gallagher moved that the Committee reconsider its action whereby it approved, as modified, the rule proposed by the Division of Natural Resources, Special Boating Regulations. The motion was adopted.

Mr. Gallagher moved that Section 3.22 of the proposed rule be modified to require the Director to approve the posting of no-wake zones. Bert Pierce, of the Division of Natural Resources, responded to questions from the Committee. Mr. Gallagher's motion was adopted.

Mr. Gallagher moved that the proposed rule be approved as modified. The motion was adopted.

Ms. Graham stated that the Division of Natural Resources had requested that they be allowed to separate the rule proposed by the Division, Rules Governing Public Use of West Virginia State Parks, State Forests and State Wildlife Management Areas Under the Division of Natural Resources, by subject matter, into three separate rules relating to campgrounds, swimming areas and general public use of the parks, forests and wildlife management areas. She told the Committee that the proposed rule had been approved as modified at the September meeting and that in her opinion the Committee would need to approve any further modifications. She distributed copies of the three separate rules.

Ms. Compton moved that the Committee approve the proposed additional modification. The motion was adopted.

Ms. Graham explained the rule proposed by the State Tax Division, Business and Occupation Tax, and stated that the Division has agreed to some technical modifications but that the Department's philosophy differs from hers on the setting forth of Code provisions within a rule. She requested the Committee's direction regarding that issue. Keith Larson, of the Department of Tax and Revenue, and John Montgomery, of the Legal Division, answered questions from the Committee.

Ms. Compton moved that the proposed rule be approved as modified. After further discussion, she requested unanimous consent to withdraw her motion. There being no objection, the motion was withdrawn.

Mr. Gallagher moved that the proposed rule lie over until the Committee's next meeting. The motion was adopted.

Ms. Graham reviewed her abstract on the rule proposed by the Division of Health, Cancer Registry.



Mr. Faircloth moved that the proposed rule be approved. The motion was adopted.

Mr. Faircloth moved that the rule proposed by the Division of Health, Standards for Local Boards of Health, be moved to the foot of the agenda. The motion was adopted.

Ms. Graham stated that when the Cable Television Advisory Board filed the modified rule for its rule, Calculation and Collection of Late Fees, it included the amendments adopted by the Committee at its September meeting in the modified rule. She stated that, in her opinion, the Committee should reconsider the proposed rule and approve the proposed rule as modified rather than modified and amended.

Ms. Compton moved that the Committee reconsider its action whereby it approved the proposed rule as modified and amended. The motion was adopted.

Mr. Gallagher moved that the proposed rule be approved as modified. The motion was adopted.

Ms. Douglas and Ms. Graham updated the Committee on its remaining workload and told the members that another special meeting would probably be scheduled to facilitate consideration of the remaining rules.

The meeting was adjourned.

ROLL CALL - LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

DATE: 10-17-95

TIME: 9:00 - 1:00 pm

NAME

Present Absent Yeas Nays

Chambers, Robert "Chuck", Speaker

Douglas, Vickie, Co-Chair

Linch, Larry, Vice-Chair

Compton, Mary Pearl

Faircloth, Larry V.

Gallagher, Brian

Riggs, Dale

Tomblin, Earl Ray, President

Ross, Michael, Co-Chair

Grubb, David, Vice-Chair

Anderson, Leonard

Boley, Donna

Buckalew, Jack

Macnaughtan, Don

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RE:

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REGISTRATION OF PUBLIC  
AT  
COMMITTEE MEETINGS  
WEST VIRGINIA LEGISLATURE

COMMITTEE: Leg. Rule-Making Review

DATE: Oct. 17, 1995

NAME	ADDRESS	REPRESENTING	PLEASE CHECK (X) IF YOU DESIRE TO MAKE A STATEMENT
<u>Please print or write plainly</u>			
GARY W. GIBSON	893 So. Wash. St., St. Albans	WV Dept. of Agriculture	
JOHN LIGGETT	342 22 <sup>ND</sup> St Dunbar WV	WV Dept. of Agriculture	
BARBARA SMITH	LARCHWOOD RD, CHLST	SELF	DAIRY PROD / FROZ DESS.
BARBARA SMITH	LARCHWOOD RD, CHLST	WV LEAGE OF WOMEN VOTERS	—
PEGGY K POWELL	1900 Kan. Blvd & Char.	WV Dept Agriculture	if needed
ROBERT FRANK	" " "	"	if needed.
TERRY TAYLOR	2125 PENN AVE WVA Post Control Operations	Post Control Operations of WVA	
HERMAN HOGG	905 7 <sup>TH</sup> AVE CH WV	P. C. O. A.	
DEXTER OWLSBY	1904 19 <sup>TH</sup> ST., MTRC	P. C. O. A. OF WV	X
CHARLES JORDAN	1615 WASH ST. E.	SWUMB	IF NEEDED
JOHN MONTGOMERY	CAPITOL	TAX & REVENUE	IF NEEDED
GILH LARSON	"	"	"
KIM HOWARD	"	DHHR	IF NEEDED
OSCAR J HARRIS	241 BOX 175D LEWIS WV 25257	FRANC-JACKSON TECHNICAL CTR	
LOUISE HADDY	1422 Wash St., Chas, WV	DHHR	IF needed
<del>CHARLES DUFFY</del>	<del>709 S College Street Martinsburg</del>	<del>RESTAURANT</del>	<del>X</del>
BERT PIERCE	CAPITOL	DNR	IF NEEDED
CHRIS QUASEBARTH	319 BLDG. B	LABOR	IF NEEDED
ANDY BROWN	"	"	—

REGISTRATION OF PUBLIC  
AT  
COMMITTEE MEETINGS  
WEST VIRGINIA LEGISLATURE

COMMITTEE: *leg. Rule-Making Review*

DATE: *Oct 17, 1995*

NAME	ADDRESS	REPRESENTING	PLEASE CHECK (X) IF YOU DESIRE TO MAKE A STATEMENT
<i>Please print or write plainly</i>	<i>1558 Washington St E</i>	<i>WJDER / OAG</i>	
<i>DAVE FAXLET</i>	<i>Charleston WV</i>	<i>Veteran Affairs</i>	<i>will answer questions as needed</i>
<i>Paul Warner</i>	<i>1321 Phoea East</i>		<i>If needed</i>
<i>Chris Gordon</i>	<i>1411 W. St. East</i>	<i>WV Bureau for Public Health</i>	<i>IF needed</i>
<i>Beverly Keener</i>	<i>Charleston</i>	<i>WV Bureau for Public Health</i>	<i>IF needed</i>
<i>W. J. Charminski</i>	<i>1422 Washington St. E</i>	<i>WV Dept. of Agriculture</i>	<i>If needed</i>
<i>Billy Payne</i>	<i>Charleston, WV 25301</i>	<i>DNR</i>	<i>if needed for bus</i>



REGISTRATION OF PUBLIC  
 AT  
 COMMITTEE MEETINGS  
 WEST VIRGINIA LEGISLATURE

COMMITTEE: LRMRC

DATE: 10/17/95

NAME	ADDRESS	REPRESENTING	PLEASE CHECK (X) IF YOU DESIRE TO MAKE A STATEMENT
<small>Please print or write plainly</small> <i>Joni McClinton House</i>	<i>Charleston</i>	<i>Div. of Personnel</i>	<i>Available to answer questions</i>

10/17/95

Dist. nt meeting  
10-17-95

Amendments Needed to Series 25B  
Special Boating Regulations

3.2. Anawalt (McDowell County): ~~Electric motors only.~~ No boating allowed.

3.22. Cheat (Monongalia County): ~~No restrictions.~~ Motorboats must observe no-wake zones marked by buoys or posted signs which are approved by the Director. Motorboats and other vessels may not enter restricted areas marked by approved buoys or posted signs.

*VSAKH*

3.28. ~~Daltex Dal-Tex (Logan County): Electric motors only.~~

3.65. ~~Mill Creek Site 10 Elk Fork (Jackson County): Motorboats are limited to a maximum of ten (10) horsepower and must observe no wake zones marked by buoys or posted signs. Boats having motors greater than ten (10) horsepower must have the propeller removed while operating on this lake.~~



*Dist. at meeting  
10-17-95*

8100 Oak Street • Dunn Loring, Virginia 22027 • (703) 573-8330 • FAX (703) 573-4116

October 12, 1995

The Honorable Vicki Douglas  
1003 Chestnut Dr.  
Martinsburg, WV 25401

c/o WV House of Delegates  
Building One, Room E-215  
1900 Kanawha Boulevard, East  
Charleston, WV 25305-0470

Dear Delegate Douglas:

I want to again thank you for taking the time to discuss the emergency school and day care integrated pest management (IPM) regulations that have been developed by the West Virginia Department of Agriculture as authorized by HB 2471. As chairperson of the Legislative Rule Making Review Committee (LRMRC), I certainly understand how busy you are and I appreciate your willingness to make time to talk about this matter with me.

As I noted, the National Pest Control Association (NPCA) is the national trade association which represents the more than 10,000 structural pest control companies for legislative, regulatory and educational purposes. Our members provide services in a variety of settings, including private residences, commercial facilities, schools and day care centers using a variety of control methods, including chemical, cultural, manual and mechanical.

NPCA has long promoted IPM. Long before it became a marketing buzz word, we stressed the practicality of the IPM approach. Therefore, I should point out that NPCA is not trying to repeal HB 2471. Although we would feel more comfortable with voluntary legislation rather than mandatory, we certainly understand the legislature's desire to address the issue of pesticide use in schools. After all, children are our most valuable resource and school IPM is an important issue and one which we anticipate will be taken up by more and more legislatures throughout the country.

Ironically, the Pest Control Operators Association of West Virginia (PCOAWV), a group who we deal with on almost a daily basis, promotes IPM as vigorously and aggressively as any state pest control association. In fact, almost all of the law's provisions have been practiced by NPCA and PCOAWV members alike for many years. Yet, there are a few provisions in the department's emergency regulations that are very troublesome and could adversely impact the quality of pest control services provided to schools and day care centers in West Virginia.



First, I would like to question the Department's reasoning for creating a new applicator category for applicators servicing schools and day care centers. Specifically, Section Nine of the emergency regulations (9.5, 9.5.1, 9.5.2 and 9.5.3) require applicators using pesticides in schools after July 1, 1996 to be examined and certified in Urban Integrated Pest Management, also known as applicator subcategory 6.3.h.E. (Enclosed is a copy of Section Nine.) Let me make it perfectly clear, both NPCA and PCOAWV strongly endorse laws and regulations requiring those applying pesticides in public places to be trained and certified. In fact, NPCA has been lobbying Congress to make this federal law. Fortunately, regulations adopted under the West Virginia Pesticide Control Act of 1990 already require those using pesticides in public places to be trained and certified.

The department already dictates the standards applicators must meet in order to become certified under the current pesticide applicator certification program. Creating an additional applicator category does not guarantee that applicators will actually practice IPM techniques. The creation of another category is just another licensing and certification burden with which pest control operators will be forced to comply. **Therefore, NPCA strongly urges you and the LRMRC to strike Sections 9.5, 9.5.1, 9.5.2 and 9.5.3.**

A second concern NPCA has with the emergency regulations is the requirement that pest control operators go progressively through each step of pest control, as laid out by the department. Although the statutory language of HB 2471 already expressly prohibits the application of pesticides before monitoring indicates pest infestations are present, the department has created a number of steps pest control operators must go through before using the pest control technique they feel is most appropriate. Not only will this provision handcuff applicators, it will drastically increase the amount schools pay for pest control. **NPCA believes this provision (Section 6.2) is wrought with problems and asks that it be struck.** (Also enclosed is Section 6.2.)

For instance, if a pest infestation has cropped up because of a leaky pipe, the pipe would have to be repaired before pesticides could be applied to control the infestation. Most school systems, however, do not have the financial resources to make many of the repairs this law requires. Yet, as written, these regulations put PCOs in the position of either having to refuse to treat the school's problem or violate the law.

Ironically, this provision could result in the use of more pesticides. Even if a pest control operator feels a product the department has categorized as a Level Three pesticide would be the most effective product for a particular situation, he or she would be mandated to use other, possibly less useful products, before being able to use the Level Three product.

The Honorable Vicki Douglas

October 12, 1995

Page 3

Lastly, NPCA is concerned that the regulations developed by the Department allow for Local School Improvement Councils to create pest threshold levels or levels at which the existence of pests warrant the use of pesticides. Although NPCA certainly doesn't advocate the use of pesticides at the sight of a single ant, we have a serious concern about granting Local School Improvement Councils the authority to approve pest threshold levels. NPCA would dare say that there is probably not a single member of any Local School Improvement Council who is an entomologist. That's not to say these panels don't have educated individuals on them. They just don't have individuals who are qualified to set pest threshold levels.

The regulations should require Councils to consult with a pest control operator, a department official, an entomologist or a university extension service employee before approving threshold levels. It is also important to point out that there is no such thing as a pest threshold level for certain pests. For instance, when wasps and ticks are present in a school environment, there is no such thing as a threshold level. A single one can cause harm or possibly death. **NPCA feels strongly that these regulations should stipulate that some pest species have no threshold level and the existence of a single one is an imminent danger.** (Enclosed is Section 4.4.)

Again I appreciate your time and consideration of this matter and urge you to call me at 1-800-678-6722 if you have any questions or concerns.

Sincerely,

*Gene Harrington*

Gene Harrington

Manager of Government Affairs

Enclosures

Dist. at meeting  
10-17-95

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Commercial Bungee Jumping Safety Act  
Type of Rule:  Legislative  Interpretive  Procedural  
Agency: West Virginia Division of Labor  
Address: Building #3, Room #319  
Capitol Complex  
Charleston, West Virginia 25305

1. Effect of Proposed Rule

	ANNUAL FISCAL YEAR				
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
<u>ESTIMATED TOTAL COST</u>	\$	\$	\$ 50	\$ 200	\$ 200
PERS/ L SERVICES			-	-	-
CURR EXPENSE			50	200	200
REPAIR & ALTERNATIONS			-	-	-
EQUIPMENT			-	-	-
OTHER			-	-	-

2. Explanation of above estimates:

This estimate assumes that enforcement will be merged with the Amusement Ride and Amusement Attraction Safety Act. Existing personnel will be utilized at no additional costs except for travel and processing. Estimates are low because only one permit has been reviewed in a twelve month period.

3. Objectives of these rules:

These rules establish administrative and enforcement procedures as mandated by this Act.



Dist. at meeting  
10-17-95

Gaston Caperton  
Governor

Robert L. Stephens, Jr.  
Director

STATE OF WEST VIRGINIA  
DEPARTMENT OF ADMINISTRATION  
DIVISION OF PERSONNEL

STATE  
PERSONNEL BOARD  
John A. Canfield, Chairman  
Rev. Paul J. Gilmer, Member  
Sharon H. Lynch, Member  
Roger Morgan, Member  
Eugene Stump, Member

MEMORANDUM

**TO:** Debra A. Graham, Counsel  
Legislative Rule-Making Review Committee

**FROM:** Tari McClintock Crouse, Assistant Director  
Employee Communications *mmc*

**RE:** Leave Donation Program - Rule Modifications

**DATE:** October 16, 1995

I am submitting for the Committee's consideration the following modifications to the agency-approved proposed rule which was filed on July 31, 1995.

**Section 3. Eligibility**

3.1. Recipient Eligibility. In order to be eligible to receive donations of annual leave...

f. The employee must not be receiving or be eligible to receive compensation for his or her absence from work from the Workers' Compensation Fund, nor may the employee be receiving Social Security Disability benefits for his or her absence from work.

**Section 5. Method of Donations and Use of Donated Leave.** All donations of annual leave and the use of donated leave...

5.2. Use of Donated Leave

a. Donated leave is used...

e. If more leave is donated to a recipient than the recipient needs or is eligible to use, that excess leave donation shall be returned to the donor(s) and re-credited to his or her (their) annual leave balance(s) according to procedures established by the Director of Personnel.

Dist at meeting  
10-17-95

TITLE 58  
LEGISLATIVE RULES  
DIVISION OF NATURAL RESOURCES

SERIES 531  
~~RULES GOVERNING PUBLIC USE OF WEST VIRGINIA STATE PARKS,~~  
STATE FORESTS, AND STATE WILDLIFE MANAGEMENT AREAS  
UNDER THE DIVISION OF NATURAL RESOURCES

~~§144-158-531-1.~~ 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~~This rule shall not be construed to include the state forests or state wildlife management areas, or any areas or facilities ~~therein~~ 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. ~~The rules are~~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.

~~§144-158-31-2.~~ 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. ~~It is unlawful to~~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 rule~~subsection does not apply to the erection of temporary blinds or tree stands in state wildlife management areas.

2.2. ~~It is unlawful to~~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. ~~Such~~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 ~~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~~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 ~~they~~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. 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~~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 ~~and regulations~~ promulgated ~~thereunder~~ 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 ~~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 or 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. No person shall have in his or her possession ~~B~~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, 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. 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 ~~thesethis~~ rules, or for the breach of any other rule which is in effect governing their use. All rentals, charges and fees are forfeited upon ~~suehan~~ 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.

TITLE 58  
LEGISLATIVE RULE  
DIVISION OF NATURAL RESOURCES

SERIES 32  
PUBLIC USE OF CAMPGROUNDS IN WEST VIRGINIA STATE PARKS,  
STATE FORESTS, AND STATE WILDLIFE MANAGEMENT AREAS  
UNDER THE DIVISION OF NATURAL RESOURCES

**58-32-1. General.**

1.1. Scope. -- This legislative rule governs the public use of campgrounds 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.

**58-32-2. Rules Governing Public Use of Campgrounds in State Parks, State Forests, and State Wildlife Management Areas under the Division of Natural Resources.**

2.1. 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.

2.2. One responsible person who has passed his or her 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.

2.3. ~~No person may camp~~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 or her discretion, may permit cabin guests to use campground laundry facilities during periods of low use by campers, preferably at a designated time.

2.4. The length of stay in any camping area shall not exceed fourteen (14) consecutive nights. ~~, except a~~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 or her 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.

2.5. 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.

2.6. 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.

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

2.8. ~~No person may~~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. ~~No person may~~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.

2.9. 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.

2.10. 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.

2.11. 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.

2.12. 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.

2.13. 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.

**58-32-3. Enforcement of Rules Governing Public Use of Campgrounds 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.

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. ~~These restrictions~~ 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.

*Dist. At meeting  
10-17-95*

TITLE 86  
LEGISLATIVE RULE  
WEST VIRGINIA DIVISION OF VETERANS' AFFAIRS

SERIES 2  
STATE HOME FOR VETERANS-FISCAL

§86-2-1. General.

1.1. Scope. -- This rule governs the funding matters related to the State Home for Veterans of Barboursville, West Virginia.

1.2. Authority. -- W. Va. Code 9A-2-3

1.3. Filing Date. --

1.4. Effective date. --

1.5 This rule repeals and replaces the Division of Veterans Affairs Rule, State Home for Veterans §86CSR2.

§86-2-2. Federal Aid Accepted For Veterans Home.

2.1. The Veterans Home shall meet the federal standard for domiciliary care as prescribed by 38 USC 641.

§86-2-3. Veterans Home Operating Fund, Consolidated Federal Funds Veterans Home Fund - Moneys For The Maintenance Of The Veterans Home to Be Deposited With State Treasurer.

3.1. The State Treasurer shall receive money which may become payable to this State by the United States Department of Veterans Affairs provided through per diem payments and grants. The Treasurer shall deposit the money to the credit of the Consolidated Federal Funds Veterans Home Fund (Account #8728) for the use and benefit of the Veterans Home.

3.2. The Director of Veterans Affairs and the Administrator of the Veterans Home shall establish accounts and funds control as are required by state statutes to receive and disburse moneys applicable to the veterans home, including, but not limited to the following Special Revenue Accounts.

(1) The Consolidated Federal Funds Veterans Home Fund (Account #8728) -- This fund shall consist of:

(a) Moneys recovered from the federal government through the grant program for renovation and construction; and,

(b) Per diem payments received from the federal government for daily care of veterans.



(2) The West Virginia Veterans Home Contribution Fund (Account #6750) -- This Fund shall consist of donations and bequests from miscellaneous organizations including, but not limited to, the following organizations and sources:

- (a) Claimed and unclaimed estates;
- (b) Any veterans organization;
- (c) Personal and private donations;
- (d) Wills; and
- (e) Commissions from vending machines at the Veterans Home.

(3) The West Virginia Veterans Home Operating Fund (Account #6754) -- This Fund shall consist of:

(a) Contributions from residents to defray the costs of room and board. The Veterans Home Administrator shall place the contributions in the appropriate Special Revenue Account. These funds shall be carried over from year to year until expended or the account is closed. These funds shall be placed in interest bearing accounts, where appropriate, with the interest accruing to the specific account involved; and,

(b) Receipts from cash payments for food service.

(c) All moneys withdrawn from the Veterans Home Operating Fund shall be authorized on the basis of an abstract approved by the Administrator in accordance with policies established by the Director of Veterans Affairs. Transfers of funds drawn upon the State Treasurer against the Veterans Home Operating Fund for transfer to an account in a state bank for disbursement shall be prepared by the Department of Administration upon approval of the transfer by the Home Administrator.

**§86-2-4. Contribution For Residents Of Home. - Creation of Special Fund.**

4.1. Each resident of the Veterans Home shall pay a monthly residents fee to the home. The fee shall be based on a resident's monthly income. The resident's fee shall be 50% of his or her monthly income. For the purposes of this section the term "monthly income" includes monthly income from all sources including, but not limited to, social security benefits, retirement benefits, veterans benefits, etc. The Veterans Home Administrator and the Administrative Committee may from time to time, recommend that the Division Director propose amendments to this section setting forth the residents fee. The Administrator or his or her designee shall collect the residents fee monthly.

**WEST VIRGINIA**  
**SECRETARY OF STATE**

**KEN HECHLER**

**ADMINISTRATIVE LAW DIVISION**

Form #4

*Dist at meeting  
10-17-95*

**FILED**

**SEP 19 3 53 PM '95**

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

**NOTICE OF RULE MODIFICATION OF A PROPOSED RULE**

AGENCY: West Virginia Cable Television Advisory Board TITLE NUMBER: 187

CITE AUTHORITY W. Va. Code 5-18-26(b)

AMENDMENT TO AN EXISTING RULE: YES  NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: \_\_\_\_\_

TITLE OF RULE BEING AMENDED: \_\_\_\_\_

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: 6

TITLE OF RULE BEING PROPOSED: Calculation and Collection of Late Fees

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.

*Mary Collins*  
\_\_\_\_\_  
Authorized Signature  
Mary Collins, Executive Secretary

**RECEIVED**

**SEP 19 1995**

**Legislative Rule Making  
Review Committee**

**WEST VIRGINIA  
SECRETARY OF STATE**

**KEN HECHLER**

**ADMINISTRATIVE LAW DIVISION**

Form #3

**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE  
AND  
FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**

AGENCY: West Virginia Cable Television Advisory Board TITLE NUMBER: 187

CITE AUTHORITY W. Va. Code 5-18-26(b)

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: 6

TITLE OF RULE BEING PROPOSED: Calculation and Collection of Late Fees

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  
Mary Collins, Executive Secretary

**TITLE 187  
LEGISLATIVE RULE  
CABLE TELEVISION ADVISORY BOARD**

**SERIES 6  
CALCULATION AND COLLECTION OF LATE FEES**

**§187-6-1. General.**

1.1. Scope. -- This legislative rule sets forth the methods to be used by cable operators in calculating and collecting late fees from subscribers.

1.2. Authority. -- West Virginia Code § 5-18-26(b)

1.3. Filing Date. --

1.4. Effective Date. --

**§187-6-2. Definitions.**

2.1. For the purpose of this rule, the terms "late fee" or "late fees" include any fee, assessment or charge levied by a cable operator for the purpose of recovering the costs of billing and processing balances unpaid by the scheduled due date of a delinquent subscriber's monthly bill.

**§187-6-3. Method of Calculation.**

3.1. Cable operators electing to charge late fees must use one of the following methods:

3.1.a. A fixed rate fee not to exceed ~~five (5)~~ two (2) dollars may be charged on the unpaid balance after the scheduled due date; or

3.1.b. A percentage fee not to exceed five (5) percent may be charged on the unpaid balance after the scheduled due date, which ever is less.

**§187-6-4. Method of Notification.**

4.1. Cable operators must provide written notice to cable subscribers of the operator's late fee policy prior to charging

any late fees. One of the following methods shall be used:

4.1.a. For companies with monthly, bi-monthly or quarterly billing periods, notice shall be printed on or supplied with each billing statement detailing the scheduled due date and the amount of percentage rate of any possible late fee; or

4.1.b. For companies with annual or coupon book billing systems, a written notice must be supplied to each subscriber at least annually detailing the due date and amount or percentage rate of any possible late fee. This information may be included with any notice required by West Virginia Code §5-18-1 et seq. or by federal law to be delivered to subscribers.

**§187-6-5. Prohibition of Duplicate Collection.**

5.1 ~~Any late fee charged by a cable operator may be collected~~ A cable operator may collect a late charge only once on any individual billing statement for a billing period, however long it remains unpaid.

**§187-6-6. Requirement of Reasonable Notice.**

6.1 ~~A late fee may not be imposed~~ A cable operator may not impose a late fee unless the scheduled due date of a payment is at least ~~fifteen~~ twenty days following the date the bill or statement for such payment is mailed to the subscriber by placing the same, postage prepaid, in the United States mail.



*West Virginia Legislature*  
*Legislative Rule-Making Review Committee*

Room MB47-State Capitol  
Charleston, West Virginia 25305  
(304) 347-4840

*Senator Mike Ross, Co-Chair*  
*Delegate Vickie Douglas, Co-Chair*

*Debra A. Graham, Counsel*  
*Joe Altizer, Associate Counsel*  
*Marie Nickerson, Admr. Assistant*

**MEMORANDUM**

**Date:** October 19, 1995  
**From:** Debra A. Graham, Counsel  
**To:** Members of Legislative Rule-Making Review Committee  
**Subject:** Special Meeting, November

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As I told you at the our meeting on Tuesday, the Committee must consider 59 proposed rules prior to the 1996 Legislative Session. The Co-Chairmen and I are of the opinion that the Committee needs to meet for a full day in the near future so that the Committee can complete its work in a timely fashion. Delegate Douglas requested approval from the President and the Speaker for the Committee to meet for a full day either Saturday, November 11 or Wednesday, November 15. These dates either immediately precede or follow the November Interims.

Please notify me as soon as possible regarding which of these dates is more convenient for you. The meeting will be scheduled on the date that is convenient for the most number of the members.