

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

Form #3

Do Not Mark In This Box

RECEIVED

97 AUG -1 PM 2:59

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

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

AGENCY: BUREAU OF COMMERCE, DIVISION OF NATURAL RESOURCES TITLE NUMBER: 58

CITE AUTHORITY: §20-7-1e

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: 13

TITLE OF RULE BEING PROPOSED: CONTRACTED EXTRAORDINARY LAW ENFORCEMENT SERVICES

**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.**

  
ROBERT A. REINTSEMA, ACTING DIRECTOR

PREAMBLE TO A PROPOSED RULE  
CONCERNING  
CONTRACTED EXTRAORDINARY LAW ENFORCEMENT SERVICES

AGENCY: Bureau of Commerce, Division of Natural Resources

RULES: Title 58, Series 13, "Contracted Extraordinary Law Enforcement Services"

ACTION: Filing of a proposed legislative rule.

SUMMARY: This is a new rule. The purpose of this rule is to establish the conditions under which conservation officers of the Division of Natural Resources may perform extraordinary law enforcement services and establish the procedure to be followed in their employment. Further, this is to comply with §20-7-1e which was passed by the legislature during the 1997 regular Legislative session.

SUMMARY OF PROPOSED RULE  
CONCERNING  
CONTRACTED EXTRAORDINARY LAW ENFORCEMENT SERVICES

The purpose of this proposed rule is specify the conditions under which conservation officers of the Division of Natural Resources may perform extraordinary law enforcement services and establish the procedure to be followed in their employment. It will also make it much easier to administer a program of contracts that the Division currently has with various government agencies. It further complies with §20-7-1e which was passed during the 1997 Regular Session of the Legislature.

## FISCAL NOTE FOR PROPOSED RULE

**Rule Title:** CONTRACTED EXTRAORDINARY LAW ENFORCEMENT SERVICES

**Type of Rule**       X   **Legislative**                **Interpretive**                **Procedural**

**Agency**     BUREAU OF COMMERCE, DIVISION OF NATURAL RESOURCES

**Address**     LAW ENFORCEMENT SECTION

BUILDING 3, CAPITOL COMPLEX

CHARLESTON, WEST VIRGINIA 25305

### 1. Effect of Proposed Rule

	ANNUAL			FISCAL YEAR	
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
ESTIMATED TOTAL COST	0	0	0	0	0
PERSONAL SERVICES	0		0	*	
CURRENT EXPENSE	0	0	0	0	0
REPAIRS & ALTERATIONS	0	0	0	0	0
EQUIPMENT	0	0	0	0	0
OTHER	0	0	0	0	0

2. Explanation of above estimates: The DNR Law Enforcement Section is currently paying time and a half for the services of conservation officers while working under contract. The DNR would see a reduction in the dollars spent to pay the hourly wages and would also save on retirement benefits that are currently paid on total earnings. The total savings is hard to estimate because it is based on total contract hours worked and these hours vary.

Rule Title: CONTRACTED EXTRAORDINARY LAW ENFORCEMENT SERVICES

**4. Explanation of overall Economic Impact of Proposed Rule.**

**A. Economic Impact on State Government:** This rule would save the state government an estimated \$ \* **Annually based on current expenditures.**

\*See number 2 above.

**B. Economic Impact on Political Subdivisions; Specific Industries; Specific Groups of Citizens:** **None**

**C. Economic Impact on Citizens/Public at Large:** **None**

**Date:** August 1, 1997

**Signature of Agency or  
Authorized Representative:**



Robert A. Reintsema, Acting Director

DATE: August 1, 1997

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: BUREAU OF COMMERCE, DIVISION OF NATURAL RESOURCES

LEGISLATIVE RULE TITLE: CONTRACTED EXTRAORDINARY LAW ENFORCEMENT SERVICES

1. Authorizing statute(s) citation §20-7-1e

2. a. Date filed in State Register with Notice of Hearing Comment Period 6-28-97

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

None

c. Date of Hearing(s) Comment period only - No comments received.

d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments. None

Attached \_\_\_\_\_ No comments received XX

e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing: (be exact)

f. Name and phone number(s) of agency persons(s) to contact for additional information:  
LT. COLONEL W.B. DANIEL, DIVISION OF NATURAL RESOURCES, BLDG 3,  
CAPITOL COMPLEX, CHARLESTON, WV. 25305

---

---

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

N/A

---

---

b. Date of hearing: N/A

---

c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

N/A

---

d. Attach findings and determinations and reasons:

Attached N/A

---

TITLE 58  
LEGISLATIVE RULE OR PROCEDURAL RULE?  
BUREAU OF COMMERCE  
DIVISION OF NATURAL RESOURCES

RECEIVED  
97 AUG -1 PM 2: 59  
OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

SERIES 13  
CONTRACTED EXTRAORDINARY LAW ENFORCEMENT SERVICES

**§58-13-1. General.**

1.1. Scope. -- This rule specifies the conditions under which conservation officers of the Division of Natural Resources may perform extraordinary law enforcement services and establish the procedure to be followed in their employment.

1.2. Authority. -- West Virginia Code §20-7-1e.

1.3. Filing Date. -- August 1, 1997

1.4. Effective Date. --

**§58-13-2. Definitions.**

2.1. Chief means the Chief of the Law Enforcement Section of the Division of Natural Resources.

2.2. Deputy Chief means the Deputy Chief of the Law Enforcement Section of the Division of Natural Resources.

2.3. Captain means the supervisory officer in an assigned Region.

2.4. Officer means a Conservation Officer of the Division of Natural Resources.

2.5. Contracted Services means those services determined by the Chief to be in the public interest performed by an officer pursuant to a contractual agreement with a public, quasi-public, military or private entity when the service is not prohibited by law and when the service would not have been otherwise performed by the Division.

2.6. Compensatory Day Off means that time off duty awarded to a member of the Division as compensation for working on a designated state or national holiday, or as compensation for accrued overtime hours worked.

2.7. Division means the West Virginia Division of Natural Resources Law Enforcement Section.

**§58-13-3. Application for Contracted Extraordinary Law Enforcement Services.**

3.1. All requests for contracted extraordinary law enforcement services must be made, in writing, to the Chief and shall explain the funding source and the authority under which the request is made.

3.2. The Chief shall not grant approval for any contractual employment in circumstances involving labor disputes.

**§58-13-4. Contract Guidelines.**

4.1. The Chief shall enter into a contract for all contracted extraordinary law enforcement services as required by West Virginia Code §20-7-1e.

4.2. All contracts shall contain provisions that the contractual employer agrees to hold harmless and indemnify the State of West Virginia, the Division of Natural Resources, its officers and employees from any liability arising from the contractual employment.

4.3. The total cost of the services and the number of hours contracted for shall not exceed those outlined in the contract unless new terms are subsequently agreed to, in writing, by both parties.

4.4. The Chief shall negotiate compensation rates for contracted services on a man-hour basis with additional consideration given for any expenditures or costs.

4.5. The contractual employer shall pay for services rendered by the Division by check, made payable to the West Virginia Division of Natural Resources Law Enforcement Section, within ten (10) days of receipt of an itemized invoice.

4.6. Officers of the Division shall make all law enforcement decisions encountered by them during contractual employment and the contractual employer shall not dictate or influence, or attempt to dictate or influence, the decisions.

4.7. In the event officers who are assigned to contractual employment are required to return to official duty in response to a public disaster or other emergency, neither the Division of Natural Resources nor any of its officers or employees are liable for any damages incurred as a result of the reassignment.

**§58-13-5. Assignment of Officers.**

5.1. The Captain or his or her designee shall coordinate the staffing and allocation for all approved requests for contractual services.

5.2. The Chief or Deputy Chief are the only persons authorized to negotiate contract provisions.

5.3. Officers accepting contractual employment must be in the following duty status:

a. Day off duty.

b. Annual leave.

c. Compensatory day off.

d. Holiday off duty; or

e. Regularly scheduled work day, provided that the officer is off-duty and that there are at least eight hours between the end of the contract work and the scheduled time the officer is to

report to duty as a Conservation Officer.

5.4. Conservation Officers will not be permitted to accept any contractual employment when the accepting of such employment would interfere with the officer's ability to perform the primary duties of a Conservation Officer.

5.5. Officers who are currently in, or placed in, the following duty status are not eligible for participation in any contractual employment:

- a. Probationary status prior to attending Basic Police Training;
- b. Attending Basic Police Training;
- c. The first 90 days of employment if officer is already Certified by the Law Enforcement Training Sub-Committee of the Governor's Committee on Crime, Delinquency and Correction;
- d. Active suspension from duty;
- e. Administrative leave;
- f. Alternative duty due to a physical or mental condition;
- g. Sick leave;
- h. Leave of absence without pay;
- I. Military leave;
- j. Unauthorized leave; or
- k. Any other time an officer is not available for duty as a Conservation Officer.

5.6. Officers assigned to contractual employment may use division owned or leased vehicles for transportation to, during and from the location of the employment. The Captain of the Region where the contractual employment is to be performed may establish mileage limitations

and/or assign multiple officers to vehicles, if necessary.

5.7. Officers are in an off-duty status while traveling to and from the location of contractual employment unless specifically instructed otherwise by the Chief or Deputy Chief.

a. Officers enroute to and returning from contractual employment will initiate any appropriate law enforcement action when a serious violation of the law occurs or a life threatening situation is observed.

**§58-13-6. Compensation.**

6.1. The Division Payroll Administrator shall compute compensation for officers on contractual employment at a rate to be announced by the Chief at the beginning of any contract period regardless of the officer's classification under the Fair Labor Standards Act or the officer's normal hourly compensation rate. The Payroll Administrator shall deduct applicable state and federal taxes from the officer's total contractual employment compensation.

6.2. The Payroll Administrator shall make no deduction of retirement contributions from contractual employment compensation and an officer's retirement benefits will not be enhanced by participation in contractual employment. All other state benefits shall remain in force during contractual employment.

**§58-13-7. Officer Conduct.**

7.1. Officers engaged in contractual employment are subject to the same rules, general orders, policies and procedures as on-duty officers.