



**WEST VIRGINIA  
SECRETARY OF STATE**

**MAC WARNER**

**ADMINISTRATIVE LAW DIVISION**

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**6/23/2017 3:29:08 PM**

OFFICE OF  
WEST VIRGINIA SECRETARY OF STATE

**FORM 1 -- NOTICE OF A PUBLIC HEARING OR COMMENT PERIOD ON A PROPOSED RULE  
(Page 1)**

**AGENCY** Natural Resources

**RULE TYPE** Legislative **AMENDMENT TO EXISTING RULE** Yes **TITLE-SERIES** 58-11

**RULE NAME** Hunting, Fishing and Other Outfitters and Guides

**CITE AUTHORITY** §20-1-7(30) and 20-2-23

**COMMENTS LIMITED TO**  
**Written**

**DATE OF PUBLIC HEARING**

**LOCATION OF PUBLIC HEARING**

**DATE WRITTEN COMMENT PERIOD ENDS**  
**Monday, July 24, 2017 5:00 PM**

**WRITTEN COMMENTS MAY BE MAILED TO**  
**Wendy L. Greene**  
**WV Division of Natural Resources**  
**324 4th Avenue, Room 343**  
**South Charleston, WV 25303**  
**You may email written comments to [Wendy.L.Greene@wv.gov](mailto:Wendy.L.Greene@wv.gov)**

**BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENTS ARE TRUE AND CORRECT.**

**Yes**  
**Patricia J White -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.**



Title-Series: 58-11



Rule Id: 16499



Document: 49491



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**FORM 1 -- NOTICE OF A PUBLIC HEARING OR COMMENT PERIOD ON A PROPOSED RULE  
(Page 2)**

**AGENCY** Natural Resources

**RULE TYPE** Legislative **AMENDMENT TO EXISTING RULE** Yes **TITLE-SERIES** 58-11

**RULE NAME** Hunting, Fishing and Other Outfitters and Guides

**CITE AUTHORITY** §20-1-7(30) and 20-2-23

**PROVIDE A BRIEF SUMMARY OF YOUR PROPOSAL**

The purpose of this rule is to establish provisions regarding the regulation of commercial outfitter and guide services and to assure safe operations.

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENTS ARE TRUE AND CORRECT.

**Yes**

Patricia J White -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



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**FORM 11 -- FISCAL NOTE FOR PROPOSED RULES (Page 1)**

**AGENCY** Natural Resources

**RULE TYPE** Legislative **AMENDMENT TO EXISTING RULE** Yes **TITLE-SERIES** 58-11

**RULE NAME** Hunting, Fishing and Other Outfitters and Guides

**CITE AUTHORITY** §20-1-7(30) and 20-2-23

**PRIMARY CONTACT**

Wendy L. Greene  
324 4th Avenue  
Room 335  
South Charleston, WV 25303

Patricia J White -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



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**FORM 11 -- FISCAL NOTE FOR PROPOSED RULES (Page 1)**

**AGENCY** Natural Resources

**RULE TYPE** Legislative **AMENDMENT TO EXISTING RULE** Yes **TITLE-SERIES** 58-11

**RULE NAME** Hunting, Fishing and Other Outfitters and Guides

**CITE AUTHORITY** §20-1-7(30) and 20-2-23

**SUMMARIZE IN A CLEAR AND CONCISE MANNER WHAT IMPACT THIS MEASURE WILL HAVE ON COSTS AND REVENUES OF STATE GOVERNMENT.**

**There is no change anticipated to the administrative expenditures as a result of this rule.**

**Patricia J White -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.**



Title-Series: 58-11



Rule Id: 16499



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**FORM 11 -- FISCAL NOTE FOR PROPOSED RULES (Page 2)**

AGENCY **Natural Resources**

RULE TYPE **Legislative** AMENDMENT TO EXISTING RULE **Yes** TITLE-SERIES **58-11**

RULE NAME **Hunting, Fishing and Other Outfitters and Guides**

CITE AUTHORITY **§20-1-7(30) and 20-2-23**

FISCAL NOTE DETAIL -- SHOW OVER-ALL EFFECT IN ITEM 1 AND 2 AND, IN ITEM 3, GIVE AN EXPLANATION OF BREAKDOWN BY FISCAL YEAR, INCLUDING LONG-RANGE EFFECT.

| Effect Of Proposal          | Current Increase/Decrease<br>(use ' - ') | Next Increase/Decrease<br>(use ' - ') | Fiscal Year (Upon<br>Full Implementation) |
|-----------------------------|------------------------------------------|---------------------------------------|-------------------------------------------|
| ESTIMATED<br>TOTAL COST     | 0.00                                     | 0.00                                  | 0.00                                      |
| PERSONAL SERVICES           |                                          |                                       |                                           |
| CURRENT EXPENSES            |                                          |                                       |                                           |
| REPAIRS AND<br>ALTERATIONS  |                                          |                                       |                                           |
| ASSETS                      |                                          |                                       |                                           |
| OTHER                       |                                          |                                       |                                           |
| ESTIMATED<br>TOTAL REVENUES | 0.00                                     | 0.00                                  | 0.00                                      |

Patricia J White -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



Title-Series: 58-11



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**FORM 11 -- FISCAL NOTE FOR PROPOSED RULES (Page 3)**

**AGENCY** Natural Resources

**RULE TYPE** Legislative **AMENDMENT TO EXISTING RULE** Yes **TITLE-SERIES** 58-11

**RULE NAME** Hunting, Fishing and Other Outfitters and Guides

**CITE AUTHORITY** §20-1-7(30) and 20-2-23

**3. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT). PLEASE INCLUDE ANY INCREASE OR DECREASE IN FEES IN YOUR ESTIMATED TOTAL REVENUES.**

**There is no change anticipated to the administrative expenditures as a result of this rule.**

**Patricia J White -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.**



Title-Series: 58-11



Rule Id: 16499



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**FORM 11 -- FISCAL NOTE FOR PROPOSED RULES (Page 4)**

**AGENCY** Natural Resources

**RULE TYPE** Legislative **AMENDMENT TO EXISTING RULE** Yes **TITLE-SERIES** 58-11

**RULE NAME** Hunting, Fishing and Other Outfitters and Guides

**CITE AUTHORITY** §20-1-7(30) and 20-2-23

PLEASE IDENTIFY ANY AREAS OF VAGUENESS, TECHNICAL DEFECTS, REASONS THE PROPOSED RULE WOULD NOT HAVE A FISCAL IMPACT, AND OR ANY SPECIAL ISSUES NOT CAPTURED ELSEWHERE ON THIS FORM.

There is no change anticipated to the administrative expenditures as a result of this rule.

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENTS ARE TRUE AND CORRECT.

Patricia J White -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



Title-Series: 58-11



Rule Id: 16499



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**FORM 12 -- BRIEF SUMMARY AND STATEMENT OF CIRCUMSTANCES (Page 1)**

**AGENCY** Natural Resources

**RULE TYPE** Legislative **AMENDMENT TO EXISTING RULE** Yes **TITLE-SERIES** 58-11

**RULE NAME** Hunting, Fishing and Other Outfitters and Guides

**CITE AUTHORITY** §20-1-7(30) and 20-2-23

**SUMMARIZE IN A CLEAR AND CONCISE MANNER CONTENTS OF CHANGES IN RULE AND STATEMENT OF CIRCUMSTANCES REQUIRING THE RULE.**

Series 58-11 reintroduces the Hunting, Fishing and Other Outfitters and Guides. An exempt rule was previously filed that mistakenly replaced 58CSR11. Following the corrected filing of the exempt rule, 58CSR11 was not refiled.

**BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENTS ARE TRUE AND CORRECT.**

**Yes**

**Patricia J White -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.**



Title-Series: 58-11



Rule Id: 16499



Document: 49491



TITLE 58  
LEGISLATIVE RULE  
BUREAU OF COMMERCE  
DIVISION OF NATURAL RESOURCES

SERIES 11  
HUNTING, FISHING AND OTHER OUTFITTERS AND GUIDES

**§58-11-1. General.**

1.1. Scope. -- The purpose of these regulations is to provide for the regulation of commercial outfitter and guide services and to assure safe operations.

1.2. Authority. -- W. Va. Code §20-1-7(30) and 20-2-23.

1.3. Filing Date. --

1.4. Effective Date. --

1.5. Sunset Provision. -- This rule shall terminate and have no further force or effect upon the expiration of 5 years from its effective date

1.6. Promulgation history. These regulations supersede West Virginia Administration Regulations, Department of Natural Resources, Series XI filed on December 30, 1982 and effective on January 1, 1983.

**§58-11-2. Definitions.**

2.1. "Outfitter" or "licensee" means any person who, operating from any temporary or permanent camp, private or public lodge, or private or incorporated home situated within this state, provides for monetary profit or gain, saddle or pack animals or other animals, vehicles, boats, conveyances or equipment, or guide services for any person to hunt game or wild animals, to hunt game or wild birds, to fish, or to go boating within the state. The term outfitter or licensee shall not include, however, any person who occasionally for accommodation or favor rather than profit or gain, rents equipment to hunters, fishermen or others as a service incidental to his/her principal occupation or business without advertising outfitter or guide services or holding out to the public his/her offering of such services.

2.2. All other terms shall have the meaning prescribed in W. Va. Code §20-1-2.

**§58-11-3. Outfitters License.**

3.1. License required. An outfitter must obtain a license from the director prior to the commencement of services in the State.

3.2. Compliance with license. An outfitter issued a license by the director must comply with the terms and conditions of that license.

3.3. License in possession. Each outfitter shall carry a copy of his/her license when conducting outfitter services. If the outfitter is a corporation, partnership, or other legal entity, then such copy will be carried by the representative of the outfitter who is present and designated in-charge during the performance of the outfitter services.

3.4. Bonding and insurance. Before any outfitting services are offered or rendered, each outfitter must execute a surety bond in the penal sum of one thousand dollars (\$1,000) payable to the State of West Virginia and must hold valid public liability insurance for which the minimum acceptable coverage shall be three hundred thousand dollars (\$300,000) per occurrence for bodily injury and twenty-five thousand dollars (\$25,000) per occurrence and twenty-five thousand dollars (\$25,000) aggregate for property damage. The licensee shall submit proof of liability insurance coverage and the surety bond to the director not later than February 15<sup>th</sup> of each year. The issuing insurance company shall furnish immediate written notification of the cancellation of the policy and/or surety bond to the director. The requirement of cancellation shall be printed on the bottom of every policy.

3.5. Application. An outfitter seeking a license shall provide the director with the information specified on the Division's application and any additional information that the director deems necessary for consideration of such application. Any change in that information must be reported by the licensee to the director within thirty (30) days of such change. The applicant may in his or her application elect to be designated as an outfitter or a guide.

3.6 License Renewal: Outfitter and Guide licenses issued under this rule expire on December 31<sup>st</sup> of the year of issue. A licensee may seek to renew his/her license by submitting an updated application to the Division no later than one month prior to the date upon which his permit or license expires. A one-month extension may be granted by Division personnel in order to facilitate the review and processing of a licensee's renewal application.

3.7. First aid. Each outfitter, or representative of the outfitter actually conducting the service, shall have a current standard first aid training certificate issued by the American Red Cross or equivalent.

3.8. Records. Licensees shall keep a current record or file containing the name, address, age, and residency of all persons who have utilized their services. This record shall be kept for a period of two (2) years and shall be made available to the director upon request.

3.9. Non-transferability. A license is nontransferable and is valid only for the calendar year designated therein.

3.10. Posted lands. A license confers no authority to trespass; written permission must be obtained from the landowner, lessee, or tenant of any fenced or posted lands before entering same.

3.11. National forest lands. An outfitters license shall not be valid on National Forest lands within this state unless written permission is obtained from the Supervisor of such National Forest lands. Such permission must be signed and approved by the Division of Natural Resources.

3.12. Bear hunts. In accordance with the provisions of W. Va. Code §20-22-22a, an outfitters license does not permit the holder thereof to organize for commercial purposes or to professionally outfit a bear hunt or to give or receive any consideration whatsoever or any donation in money, goods, or services in connection with a bear hunt.



**§58-11-4. Hunting, Fishing and Other Trips.**

4.1. Equipment. All vehicles, boats, conveyances, and equipment provided or used by an outfitter shall be maintained in a safe, operable condition.

4.2. All trips to hunt game or wild animals or game or wild birds or both must comply with current West Virginia hunting regulations. The licensee and all guests must have the appropriate hunting licenses and stamps on such trips.

4.3. All fishing trips must comply with current West Virginia fishing regulations. The licensee and all guests must have the appropriate fishing licenses and stamps on such trips.

**§58-11-5. Outfitting in Whitewater Zones.**

5.1. In accordance with W. Va. Code §20-2-23(a)(12), there will be a special whitewater study and improvement fee paid by each outfitter or for each customer that is transported in a commercial activity in the study zones on the Cheat, Gauley, New, Shenandoah and Tygart Valley rivers.

**5.2. Whitewater Fee Amount.**

5.2.a. The study and improvement fee is thirty-five cents (\$.35) for each customer transported on a commercial activity in study zones on the Cheat, New, Shenandoah and Tygart Valley rivers.

5.2.b. The study and improvement fee is seventy cents (\$.70) for each customer transported on a commercial activity in study zones on the Gauley River.

5.3. The outfitter shall pay these fees to the Division by the fifteenth (15<sup>th</sup>) day of the month following the month in which the fee was assessed and deposit them in the Whitewater Study and Improvement Fund.

5.4. The outfitter shall report whitewater user numbers and trip leader reports to the Division by the fifteenth (15<sup>th</sup>) day of the month following the month in which the services were provided.

**§58-11-6. Accident and Property Damage Reports.**

5.1. Injury report. If an accident which requires medical treatment occurs during the performance of a licensee's services, the licensee must file a report with the director within five (5) days after the accident. This injury report shall include the name, address, and age of the injured person; the nature of the injury; and the time, place, and circumstances of the accident.

5.2. Property damage report. If an accident occurs during the performance of licensee services which results in non-vehicular property damage in excess of five hundred dollars (\$500), the licensee must file a report with the director within five (5) days after the accident. This property damage report shall include the name of the owner of the property; an estimate of the amount of the loss; the time and location of the event causing the damage; and a description of the accident.

**§58-11-7. Enforcement and Penalties.**

6.1. Penalty for license violation. An outfitter who violates the terms and conditions of his/her license shall be subject to the penalties prescribed in W. Va. Code §20-7-9.

6.2. Penalty for failure to obtain a license. An outfitter who does not obtain a license shall be subject to the penalties prescribed in W. Va. Code §20-2-26.

6.3. Modification, suspension, or revocation of license. If the director determines that a pattern of violations of any requirement of these regulations or any term or condition of a license exists or has existed as a result of the licensee's lack of reasonable care or diligence, or that such violations are willfully caused by the licensee, the director shall immediately issue an order directing the licensee to show cause why the license should not be modified, suspended, or revoked and giving the licensee thirty (30) days in which to request a hearing subject to the provisions of Section 7 of these regulations. Within sixty (60) days following such hearing, the director shall issue and furnish to the licensee a written decision, and the reasons therefore, concerning the modification, suspension, or revocation of the license. Upon a licensee's failure to show cause why the license should not be modified, suspended, or revoked, the director may modify, suspend, or revoke the license, forfeit the licensee's bond posted under W. Va. Code §20-2-26, and give notice to the Attorney General of the State to seek collection of the forfeiture without delay.

6.4. License modification, suspension, and revocation procedures shall be governed by the provisions of W. Va. Code §29A-5-1 et seq. unless otherwise specified in these regulations.

**§58-11-8. Appeals.**

7.1. The terms and conditions of a license are appealable under the provisions of W. Va. Code §29A-5-1 et seq.