



WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

eFILED

7/30/2021 3:32:23 PM

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: Natural Resources TITLE-SERIES: 58-30
RULE TYPE: Legislative Amendment to Existing Rule: No Repeal of existing rule: No
RULE NAME: 58-30 Wildlife Education Facilities

PRIMARY CONTACT

NAME: Wendy L Greene
ADDRESS: 324 4th Avenue
Room 341
South Charleston, WV 25303
EMAIL: wendy.l.greene@wv.gov
PHONE NUMBER: 304-558-2754

CITE STATUTORY AUTHORITY: §20-1-7(28) and §20-1-7(31))

EXPLANATION OF THE STATUTORY AUTHORITY FOR THE LEGISLATIVE RULE, INCLUDING A DETAILED SUMMARY OF THE EFFECT OF EACH PROVISION OF THE LEGISLATIVE RULE WITH CITATION TO THE SPECIFIC STATUTORY PROVISION WHICH EMPOWERS THE AGENCY TO ENACT SUCH RULE PROVISION:

This rule establishes regulations to govern public use of Wildlife Education Facilities under the jurisdiction of the WV Division of Natural Resources, Wildlife Resources Section.

IS THIS FILING SOLELY FOR THE SUNSET PROVISION REQUIREMENTS IN W. VA. CODE §29A-3-19(e)? No

IF YES, DO YOU CERTIFY THAT THE ONLY CHANGES TO THE RULE ARE THE FILING DATE, EFFECTIVE DATE AND AN EXTENSION OF THE SUNSET DATE? No

DATE eFiled FOR NOTICE OF HEARING OR PUBLIC COMMENT PERIOD: 6/30/2021

DATE OF PUBLIC HEARING(S) OR PUBLIC COMMENT PERIOD ENDED: 7/29/2021

COMMENTS RECEIVED: Yes

(IF YES, PLEASE UPLOAD IN THE COMMENTS RECEIVED FIELD COMMENTS RECEIVED AND RESPONSES TO COMMENTS)

PUBLIC HEARING: No

(IF YES, PLEASE UPLOAD IN THE PUBLIC HEARING FIELD PERSONS WHO APPEARED AT THE HEARING(S) AND TRANSCRIPTS)

RELEVANT FEDERAL STATUTES OR REGULATIONS: No

WHAT OTHER NOTICE, INCLUDING ADVERTISING, DID YOU GIVE OF THE HEARING?

press release

SUMMARY OF THE CONTENT OF THE LEGISLATIVE RULE, AND A DETAILED DESCRIPTION OF THE RULE'S PURPOSE AND ALL PROPOSED CHANGES TO THE RULE:

This rule establishes regulations to govern public use of Wildlife Education Facilities under the jurisdiction of the WV Division of Natural Resources, Wildlife Resources Section.

This is a new rule.

STATEMENT OF CIRCUMSTANCES WHICH REQUIRE THE RULE:

This rule is necessary to establish regulations to govern the public use of wildlife education facilities.

SUMMARIZE IN A CLEAR AND CONCISE MANNER THE OVERALL ECONOMIC IMPACT OF THE PROPOSED LEGISLATIVE RULE:

A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:

There is no anticipated economic impact on the revenue of the state.

B. ECONOMIC IMPACT ON SPECIAL REVENUE ACCOUNTS:

There is no anticipated impact on special revenue accounts.

C. ECONOMIC IMPACT OF THE LEGISLATIVE RULE ON THE STATE OR ITS RESIDENTS:

No economic impact on the state or its residents is anticipated.

D. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2021 Increase/Decrease (use "-")	2022 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	0	0	0
Personal Services	0	0	0
Current Expenses	0	0	0
Repairs and Alterations	0	0	0
Assets	0	0	0
Other	0	0	0
2. Estimated Total Revenues	0	0	

E. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT):

There is no anticipated change to administrative costs or revenues.

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.

Yes

Jack M Rife -- 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 58
LEGISLATIVE RULE
DEPARTMENT OF COMMERCE
DIVISION OF NATURAL RESOURCES

SERIES 30
WILDLIFE EDUCATION FACILITIES

§58-30-1. General.

1.1. Scope and Purpose. – This legislative rule establishes regulations to govern public use of Wildlife Educational Facilities under the jurisdiction of the West Virginia Division of Natural Resources, Wildlife Resources Section.

1.2. Authority. -- W. Va. Code §20-1-7(28), §20-1-7 (31).

1.3. Filing Date. --

1.4. Effective Date. --

1.5. Sunset Provision. -- This rule shall terminate and have no further force on August 1, 2027.

§58-30-2. Definitions.

2.1. “Division” means the West Virginia “Division” of Natural Resources.

2.2. “Wildlife Education Facility” means a state operated facility, including buildings, trails, and accompanying land which make up the entirety of the facility, dedicated to the education of the public concerning the wildlife resources of the state.

2.3. “Wildlife Center” means the West Virginia State Wildlife Center in French Creek, West Virginia.

2.4. “Forks of Coal” or “FOC” means the Forks of Coal State Natural Area including the Claudia L. Workman Wildlife Education Center, in Alum Creek, West Virginia.

2.5. “All-Terrain Vehicle” or “ATV” means any motor vehicle designed for off-highway use and designed to travel on not less than three low-pressure tires, having a seat or saddle designed to be straddled by the operator and handlebars for steering control and intended by the manufacturer to be used by a single operator or by an operator and no more than one passenger, as defined in W. Va. Code §17F-1-9.

2.6. “Utility-terrain vehicle” or “UTV” means any motor vehicle with four or more low-pressure tires designed for off-highway use having bench or bucket seating for each occupant and a steering wheel for control, as defined in W. Va. Code §17F-1-9.

2.7. "Bicycle" or "Mountain Bike" means every device which does not have a motor attached and which is propelled by human power upon which any person may ride, having two tandem wheels either of which is more than twenty inches in diameter, as defined in W. Va. Code §17C-1-8.

2.8. "Electric bicycle" means every two-wheel or three-wheel bicycle equipped with fully operable pedals and an electric motor of less than 750 watts that is a Class 1 electric bicycle or a Class 3 electric bicycle, as defined in W. Va. Code §17C-1-70.

2.9. "Geocaching" means the recreational activity of hiding or seeking strategically located caches using navigational techniques and specific coordinates.

2.10. "Animal Loop Walking Trail" means the approximately 0.8-mile interior walking trail around the animal enclosures at the West Virginia State Wildlife Center and the two approximately 0.5-mile access routes that start at the Gift Shop parking area.

2.11. "Motor Vehicle" means every vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails, except motorized wheelchairs, as defined in W. Va. Code §17C-1-3.

2.12. "Service Animal" means any animal classified as a Service Animal under the Americans with Disabilities Act.

2.13. All other terms have the meaning prescribed to them in W. Va. Code §20-1-2.

§58-30-3. General Regulations

3.1. Property Damage. It is illegal to cut, damage, deface, or destroy any building, rock, shrub, sign, tree, or other property on a wildlife education facility.

3.2. Removal of Objects. No person shall remove any man-made or natural object, material, substance, plant, animal, or historical or archeological relic or artifact, except those legally acquired through hunting and fishing in accordance with W. Va. Code 20-2-1 et seq. or upon authorization in writing by the Director. Objects which may not be removed include, but are not limited to, animals, plants, fungi, rocks and minerals, sand, and historical or archaeological artifacts.

3.3. Unauthorized entrance. No person shall go beyond a gate, cable, other obstruction, or proceed beyond any sign prohibiting unauthorized entrance to the public.

3.4. Fires. Fires may be lighted only in fireplaces, fire rings, grates, or grills provided by the Division or in places designated by Division staff. Those persons responsible for a fire shall extinguish it completely before leaving the site.

3.5. Feeding of Wildlife. No person shall feed or attempt to feed wildlife within wildlife education facilities, except as a part of a Division approved wildlife education program.

3.6. Noises and Disturbances. Loud or excessive noise, demonstrations, disturbances, disorderly conduct, public drunkenness, and the possession or use of controlled substances is prohibited.

3.7. Swimming. Swimming is prohibited except in places designated for that purpose or as part of a Division approved training.

3.8. Signage. Posting of unauthorized signs, notices, and flyers at any location on a wildlife education facility is prohibited.

3.9. Litter. Garbage, waste, bottles, cans, paper, junk, or any other trash or refuse may not be dumped, deposited, or strewn within the boundary of the properties.

3.10. Reserved Areas. Picnic areas or any other facilities that are reserved shall not be subleased by guests or patrons.

3.11. Unauthorized use. It is unlawful for any person to not pay the rental, charge, or fee for any facility, service, activity, or good he or she uses or purchases at any wildlife education facility.

3.12. Hours of Operation. Operating hours will be posted at all wildlife education facility entrances. No unauthorized person may use any wildlife education facility except during those posted operating hours.

3.13. Pets.

3.13.1. Dogs and cats are the only pets permitted on the grounds of wildlife educational facilities.

3.13.2. All pets are prohibited in any building, enclosed structure, and on the Animal Loop Walking Trail at the Wildlife Center, provided service animals as classified under the Americans with Disabilities Act are permitted.

3.13.3. Pets are permitted in and around picnic areas, designated roads, and trails.

3.13.4. Pets must be restrained at all times on a sturdy leash not to exceed 10 feet in length.

3.13.5. The owner or master of any pet shall clean up the pet's excrement, keep the pet from disturbing other guests, and is responsible for any damages caused by the pet.

3.14. Fireworks and Explosives. Fireworks, explosives, incendiaries, and other dangerous substances are prohibited.

3.15. Alcoholic beverages. Alcoholic beverages are prohibited within wildlife educational facilities, except for limited duration events approved in writing by the Director.

3.16. Vending. Hawking, peddling, soliciting, begging, advertising, or carrying on commercial enterprise is prohibited without written approval of the Director.

3.17. Fishing.

3.17.1. Fishing is permitted in designated areas only in accordance with state law, fishing rules promulgated under the law, and rules publicly posted in those areas.

3.17.2. Fishing is prohibited in the Animal Loop Walking Trail pond at the Wildlife Center.

3.18. Hunting. Hunting is prohibited at wildlife education facilities, except as authorized by a special controlled hunting season established by the West Virginia Natural Resources Commission.

3.19. Motor vehicles, bicycles, and electric bicycles at Wildlife Education Facilities.

3.19.1. The speed limit of motor vehicles is 20 miles per hour unless otherwise posted. Drivers must obey all traffic laws, signs, and directions.

3.19.2. Driving of vehicles in any manner that creates a nuisance to guests or wildlife is prohibited. No person may operate a motor vehicle in a manner so as to harass, chase or annoy any person or animal.

3.19.3. Motor vehicles, including but not limited to, cars, trucks, motorbikes, snowmobiles, UTVs, and ATVs may be operated only on public roads open for the purposes of vehicular travel, and on trails and areas designated for their use.

3.19.4. 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.

3.19.5. Bicycles and electric bicycles may be operated only on public roads, bicycle paths, and trails designated for their use.

3.20. Geocaching. The establishment or movement of a geocaching location is only permitted with the approval of Division staff.

3.21. Drones. No person shall operate a drone, or other unmanned aircraft at any Wildlife Education Facility, except as authorized by the Director.

3.22. Exemptions. Division staff, law enforcement personnel, and emergency services personnel, when operating in an official capacity, are exempt from the provisions of this rule.

§58-30-4. Penalties.

4.1. Any person who violates this rule may be removed from a Wildlife Education Facility.

4.1.1. All rentals, charges, and fees are forfeited upon removal for violation of this rule.

4.2. Any person who violates any provision of this rule is guilty of a misdemeanor, and. Upon conviction thereof, shall be punished in accordance with W.Va. Code §20-7-9.