

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #1

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1988 DEC 16 PM 12:37
SECRETARY OF STATE

NOTICE OF PUBLIC HEARING ON A PROPOSED RULE

AGENCY: WV Department of Natural Resources TITLE NUMBER: 47
RULE TYPE: Legislative; CITE AUTHORITY W. Va. Code §§20-2-11 and 20-2-12
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: 16

TITLE OF RULE BEING PROPOSED: "Tagging, Transporting, and Selling
the Raw Furs, Pelts, or Skins of Wildlife"

DATE OF PUBLIC HEARING: Monday, January 23, 1989 TIME: 1:00 p.m.

LOCATION OF PUBLIC HEARING: Director's Conference Room 674
Building 3, State Capitol Complex
Charleston, West Virginia


COMMENTS LIMITED TO: ORAL WRITTEN BOTH X

COMMENTS MAY ALSO BE MAILED TO THE FOLLOWING ADDRESS: WV Dept. of Natural Resources
Building 3, State Capitol Complex
Charleston, WV 25305
Attn: OERA

The Department requests that persons wishing to make comments at the hearing make an effort to submit written comments in order to facilitate the review of these comments.

The issues to be heard shall be limited to the proposed rule.

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL



FISCAL NOTE FOR PROPOSED RULES

Rule Title: Tagging, Transporting, and Selling the
Raw Furs, Pelts, or Skins of Wildlife

Type of Rule: X Legislative Interpretive Procedural

Agency: West Virginia Department of Natural Resources

Address: Building 3, State Capitol Complex, Charleston, West Virginia

1. Effect of Proposed Rule (Estimated Total Cost)	Increase \$	ANNUAL	Current \$	FISCAL YEAR	
		Decrease \$		Next \$	Thereafter \$

Personal Services

Current Expense

Repairs and Alterations

NO CHANGE

Equipment

Other

2. Explanation of Above Estimates:

This rule updates existing Department regulations;
no new administrative expenditures are anticipated.

3. Objectives of These Rules:

This rule establishes regulations to govern the shipment
and sale of the raw furs, pelts, or skins of wildlife.

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government: NO IMPACT

B. Economic Impact on Political Subdivisions: NO IMPACT

Economic Impact on Specific Industries: NO IMPACT

Economic Impact on Specific Groups of Citizens: NO IMPACT

C. Economic Impact on Citizens/Public at Large: NO IMPACT

Date: December 16, 1988


for Ronald R. Potesta
Director

**PREAMBLE TO A PROPOSED LEGISLATIVE RULE
CONCERNING THE RAW FURS, PELTS, AND SKINS OF WILDLIFE**

STATE AGENCY: West Virginia Department of Natural Resources

REGULATIONS: Title 47, Series 16, "Tagging, Transporting, and Selling the Raw Furs, Pelts, or Skins of Wildlife"

AUTHORITY: W. Va. Code §§20-2-11 and 20-2-12

ACTION: Proposed Rule; Notice of Hearing and Comment Period

DATES: A public hearing on this proposal will be held on Monday, January 23, 1989 at 1:00 p.m. in Room 674, Building 3, State Capitol Complex, Charleston; written comments will be received by the Department until 4:30 p.m. on that day.

CONTACT: For further information regarding this filing, please contact Mr. Jeffrey E. Herrold, WV Department of Natural Resources, Building 3, State Capitol Complex, Charleston, West Virginia 25305, telephone (304) 348-2761.

SUMMARY: The Department is proposing a new legislative rule to regulate the shipment and sale of raw furs, pelts, and skins. The new rule repeals and replaces the Department's existing Series 16 rule concerning the tagging of pelts prior to shipment.

The new rule includes provisions pertaining not only to shipping tags but also to fur dealer licensing, record keeping, and transaction reporting. This proposal is a companion to the Department's proposed Series 16A procedural rule concerning the application for and renewal of fur dealer licenses.

TITLE 47
LEGISLATIVE RULES
DEPARTMENT OF NATURAL RESOURCES

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SERIES 16
TRANSPORTING AND SELLING WILDLIFE PELTS

SECRETARY OF STATE

§47-16-1. General.

1.1. Scope and Purpose. -- The purpose of this rule is regulate the shipment and sale of the raw furs, pelts, and skins of wildlife.

1.2. Authority. -- W. Va. Code §§20-2-11 and 20-2-12.

1.3. Filing Date. --

1.4. Effective Date. --

1.5. Repeal of Former Rule. -- This legislative rule repeals and replaces 47 C.S.R. 16 "Procedures for Transporting and Dealing in Fur-Bearing Animals" that was filed on June 12, 1987 and became effective on July 1, 1987.

§47-16-2. Definitions.

2.1. "Department" means the West Virginia Department of Natural Resources.

2.2. "Director" means the director of the West Virginia Department of Natural Resources.

2.3. "Fur-Bearing Animal" means an animal of one of the following species: beaver; bobcat; fisher; gray fox; mink; muskrat; opossum; otter; raccoon; red fox; spotted skunk; striped skunk; or weasel.

2.4. "Hide" means a fresh or dressed skin that has been stripped from an animal.

2.5. "Licensed Trapper" means a person who takes fur-bearing animals in this State under a valid Class A, A-L, AB, AB-L, or S license or who is by statute exempt from such licensing.

2.6. "Licensee" means a person who has been issued a fur dealer's license or an agent's permit by the Department.

2.7. "Raw Fur, Pelt, or Skin" means a fresh or dressed skin, with its hair either removed or remaining, that has

been either stripped from an animal or left attached to its carcass.

2.8. "Series 16A" means Title 47, Department of Natural Resources, Series 16A, "Fur Dealer Transactions" (47 C.S.R. 16A).

§47-16-3. Shipping Tags.

3.1. No person may ship, transport, or carry by any means the raw fur, pelt, or skin of a fur-bearing animal taken within this State to a point outside of the State unless such shipment has a Department shipping tag visibly attached.

3.1.1. Shipping tags for commercial fur dealers may be obtained free of charge from any Department of Natural Resources office statewide. Shipping tags for individual hunters and trappers may be obtained free of charge from any Department of Natural Resources office or licensing agent statewide.

3.1.2. One part of the shipping tag must be attached to the outside of the package or container that will be shipped, transported, or otherwise carried. The other part of the tag must be completed and returned to the Department within twenty-four (24) hours of shipment.

§47-16-4. Fur Dealer Licensing.

4.1. Except as provided in Section 4.1.1 of these regulations, no person may buy or sell in this State the raw fur, pelt, or skin of any fur-bearing animal unless he has a valid fur dealer's license or agent's permit issued by the Department.

4.1.1. A licensed trapper need not obtain a fur dealer's license or agent's permit from the Department in order to sell the raw fur, pelt, or skin of a fur-bearing animal which he legally trapped in this State.

4.2. Except as provided in Sections 4.2.1 and 4.2.2 of these regulations, no person may have in his possession the raw fur, pelt, or skin of any fur-bearing animal within the period beginning ten (10) days after the end of the open season on such fur-bearing animal and ending with the first day of the next succeeding open season unless he has a valid fur dealer's license or agent's permit issued by the Department.

4.2.1. No person may have in his possession the untagged raw fur, pelt, or skin of a beaver within the period beginning thirty (30) days after the end of the open season on beaver and ending with the first day of the next succeeding open season unless he has a valid fur dealer's license or agent's permit issued by the Department.

4.2.2. A licensed trapper need not obtain a fur dealer's license or agent's permit from the Department, but instead must obtain written permission from the director, in order to retain in his possession the raw fur, pelt, or skin of a fur-bearing animal which he legally trapped in this State.

4.3. All fur dealer's licenses and agent's permits will be issued by Department in accordance with the procedures found in Series 16A.

§47-16-5. Fur Dealer Record Keeping.

5.1. A person who has been issued a fur dealer's license by the Department must maintain records of all purchases and sales of the raw furs, pelts, or skins of fur-bearing animals and the hides of black bears.

5.2. The records of any person who has been issued a fur dealer's license by the Department may be inspected during normal business hours by a Department conservation officer to assure compliance with all requirements mandated by statute or regulation or by the terms and conditions of the fur dealer's license.

§47-16-6. Fur Dealer Reporting.

6.1. A person who has been issued a fur dealer's license by the Department must file transaction reports detailing all purchases and sales of the raw furs, pelts, or skins of fur-bearing animals and the hides of black bears in accordance with the procedures found in Series 16A.

6.2. Failure by a licensed fur dealer to file transaction reports on time, or refusal to file such reports, constitutes cause for license revocation under Section 7 of these regulations.

6.3. Failure by a licensed fur dealer to file transaction reports which are accurate, legible, and complete constitutes cause for license revocation under Section 7 of these regulations.

§47-16-7. License and Permit Revocations.

7.1. If the director determines that a violation of any requirement of these regulations or any term or condition of a fur dealer's license or an agent's permit exists or has existed, the director may issue an order directing the licensee to show cause why his license or permit should not be revoked.

7.2. The show-cause order will provide the licensee with thirty (30) days in which to respond.

7.3. The licensee must respond to the show-cause order either by submitting a written explanation to the director or by requesting an informal hearing before the director.

7.4. Upon a licensee's failure to show cause why his license or permit should not be revoked, the director may revoke the license or permit upon the issuance of a written decision, and the reasons therefor, concerning the action taken.

§47-16-8. Penalties.

8.1. Penalty for Failure to Attach or Submit Shipping Tag. A person who ships, transports, or carries by any means the raw fur, pelt, or skin of a fur-bearing animal taken within this State to a point outside of the State, but fails to follow the provisions of these regulations related to shipping tags, is subject to the penalties prescribed in W. Va. Code §20-2-12.

8.2. Penalty for Failure to Obtain a License or Permit. A person who engages in the purchase or sale in this State of the raw furs, pelts, or skins of fur-bearing animals, but fails to obtain the necessary license or permit from the Department, is subject under W. Va. Code §20-2-2 to the penalties prescribed in W. Va. Code §20-7-9.

8.3. Penalty for License or Permit Violation. A person who violates the terms and conditions of his license or permit is subject to the penalties prescribed in W. Va. Code §20-7-9.

TITLE 47
LEGISLATIVE RULES
DEPARTMENT OF NATURAL RESOURCES

SERIES 16
PROCEDURES FOR TRANSPORTING AND DEALING IN FURBEARING ANIMALS

§47-16-1. General.

1.1. Scope. -- The purpose of this rule is regulate the shipping of raw furs, pelts, and skins of furbearing animals taken in the State of West Virginia.

1.2. Authority. -- W. Va. Code §20-2-12.

1.3. Filing Date. -- June 12, 1987.

1.4. Effective Date. -- July 1, 1987.

§47-16-2. Procedures.

2.1. Shipping Tags. -- A person may not ship, transport, or carry by any means any raw furs, pelts, or skins of any furbearing animal taken within the State to a point outside of the State unless such shipment has a special free shipping tag visibly attached. Shipping tags must be obtained from the Department of Natural Resources. One part of the tag shall be attached to the outside of the package or container and the other part completed and returned to the Department of Natural Resources within twenty-four (24) hours of shipment of the furs, pelts, or skins out of the State.

2.2. Fur Dealer Reporting. -- The dealer or buyer of raw furs, pelts, or skins of furbearing animals in this State shall prepare and send to the director of the Department of Natural Resources a completed fur dealer transaction report as provided by the Department.