



WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

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

AGENCY: Natural Resources TITLE-SERIES: 58-69  
RULE TYPE: Legislative Amendment to Existing Rule: Yes Repeal of existing rule: No  
RULE NAME: 58-69 Wildlife Disease Management

**PRIMARY CONTACT**

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CITE STATUTORY AUTHORITY: §20-1-7(30)

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:

§20-1-7(30) provides for the promulgation of rules to establish rules and procedures to manage, prevent, suppress, control and/or eradicate communicable diseases of wildlife.

DATE eFiled FOR NOTICE OF HEARING OR PUBLIC COMMENT PERIOD: 6/28/2017

DATE OF PUBLIC HEARING(S) OR PUBLIC COMMENT PERIOD ENDED: 7/28/2017

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?

No public hearing was held. There was a 30 day comment period.

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

Series 69 revises the current Wildlife Disease Management Rule. Revisions to this rule include language which prohibits the possession or use of any substance or material that contains or purports to contain any excretion collected from a cervid, including feces, urine, blood, gland oil, or other bodily fluid, while taking or attempting to take, attracting, or scouting any wild animal in West Virginia. The purpose of this rule is to establish rules and procedures to manage, prevent, suppress, control and/or eradicate communicable diseases of wildlife.

STATEMENT OF CIRCUMSTANCES WHICH REQUIRE THE RULE:

The purpose of this rule is to establish rules and procedures to manage, prevent, suppress, control and/or eradicate communicable diseases of wildlife. Series 69 revises the current Wildlife Disease Management Rule. Revisions to this rule include language which prohibits the possession or use of any substance or material that contains or purports to contain any excretion collected from a cervid, including feces, urine, blood, gland oil, or other bodily fluid, while taking or attempting to take, attracting, or scouting any wild animal in West Virginia.

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 change anticipated to the administrative expenditures as a result of this rule.

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

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

C. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2017 Increase/Decrease (use "-")	2018 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
<b>1. Estimated Total Cost</b>	0	0	0
<b>Personal Services</b>	0	0	0
<b>Current Expenses</b>	0	0	0
<b>Repairs and Alterations</b>	0	0	0
<b>Assets</b>	0	0	0
<b>Other</b>	0	0	0
<b>2. Estimated Total Revenues</b>	0	0	0

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

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.**

TITLE 58  
LEGISLATIVE RULE  
DEPARTMENT OF COMMERCE  
DIVISION OF NATURAL RESOURCES

SERIES 69  
WILDLIFE DISEASE MANAGEMENT

**§58-69-1. General.**

1.1. Scope and Purpose. -- The purpose of this rule is to establish rules and procedures to manage, prevent, suppress, control and/or eradicate communicable diseases of wildlife.

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

1.3. Filing Date. -- ~~April 9, 2007.~~ July 28, 2017

1.4. Effective Date. -- ~~April 9, 2007.~~

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

**§58-69-2. Definitions.**

2.1. "Feeding" means the direct or indirect placing, exposing, depositing, distributing, or scattering of bait so as to constitute for wildlife a lure, attraction, or enticement to or on any areas where hunters are attempting to take them. Food plots and/or crops left standing in the field do not constitute feeding.

2.2. "Cervids" mean deer, elk and other species of the family Cervidae.

2.3. "Containment Area" means an area designated by the Director where wildlife has been found to be infected with a contagious or infectious disease. The purpose of a containment area is to manage, control, eradicate and/or prevent the spread of the disease. The establishment of a containment area by the Director will be based upon the most currently available information relating to wildlife disease epidemiology, wildlife disease surveillance information (i.e., geographic distribution and prevalence) and the need to establish boundaries associated with clearly defined features on the landscape. The Director shall, at least annually after the establishment of a containment area, review and evaluate any and all new information relating to wildlife disease epidemiology and surveillance to determine whether any such designation of a containment area should be modified or rescinded and shall report these findings to the Natural Resources Commission. Prior to the establishment of a containment area, the Director shall consult with:

2.3.a. wildlife biologists within the Wildlife Resources Section that are knowledgeable of wildlife diseases;

2.3.b. a Department of Agriculture veterinarian knowledgeable of wildlife diseases;

2.3.c. ~~conservation~~ natural resources police officers familiar with local and regional landscape features; and

2.3.d. the Natural Resources Commission.

2.4. “Chronic Wasting Disease” (CWD) is an infectious neurological disease of cervids. The disease belongs to the family of diseases known as transmissible spongiform encephalopathies (TSEs) and is caused by an abnormal form of a protein called a prion.

2.5. “Bovine Tuberculosis” means an infectious disease caused by *Mycobacterium bovis*, commonly known as tubercle bacillus.

2.6. “Avian Influenza” (AI) is a type A influenza virus that is naturally found in certain species of waterfowl and shorebirds.

2.7. “Director” means the Director of the Division of Natural Resources.

2.8. “Chronic Wasting Disease Positive Area” means an area in which Chronic Wasting Disease has been diagnosed and the boundaries of which are delineated by the appropriate state or provincial wildlife agency.

2.9. Other terms have the meaning prescribed to them in the Division’s rule, Rule Defining the Terms To Be Used Concerning All Hunting and Trapping Rules 58 CSR 46 and Prohibitions When Hunting and Trapping 58 CSR 47.

### **§58-69-3. Carcass Transport Regulations.**

3.1. It is unlawful to transport dead cervids or their parts beyond the boundary of a chronic wasting disease containment area except for the following portions of the carcass: (1) meat that has been boned out, (2) quarters or other portions of meat with no part of the spinal column or head attached, (3) cleaned hide with no head attached, (4) clean skull plate (no meat or tissue attached) with antlers attached, (5) antlers with no meat or tissue attached, and (6) finished taxidermy mounts.

3.1.1. State or county agencies and licensed solid waste disposal vendors may transport cervid carcasses or parts thereof to an approved sanitary landfill.

3.1.2. Hunters may transport cervid carcasses that were not killed inside the containment area through the containment area.

3.2. It is unlawful to import into West Virginia dead cervids or their parts from any state or province which has had free roaming deer, elk, moose or other cervids diagnosed with chronic wasting disease, except the following portions of the carcass: (1) meat that has been boned out, (2) quarters or other portions of meat with no part of the spinal column or head attached, (3) cleaned hide with no head attached, (4) clean skull plate (no meat or tissue attached) with antlers attached, (5) antlers with no meat or tissue attached, (6) finished taxidermy mounts, and (7) upper canine teeth, also known as buglers, whistlers or ivories with no meat or tissue attached. Provided, that if the state or province has designated a chronic wasting disease positive area and if the Director approves the boundaries of this area then these importation restrictions apply only to the chronic wasting disease positive area. The

Director may for the purpose of this section alter the chronic wasting disease positive area.

**§58-69-4. Baiting and Feeding Regulations.**

4.1. It is illegal to feed cervids or other wildlife in a containment area as determined by the Director and established for the management, control or eradication of chronic wasting disease, bovine tuberculosis, avian influenza or other wildlife diseases. Provided, that song and insectivorous birds may be fed so long as the person or persons feeding the same shall not do so in a manner that causes a congregation of cervids or other wildlife or in a manner that said person or persons reasonably should have known would cause a congregation of cervids or other wildlife. Provided further, that captive cervids may be fed inside cervid facilities permitted by the ~~Division of Natural Resources~~ West Virginia Department of Agriculture pursuant to W. Va. Code §19-2H.

**§58-69-5. Cervid Excretions Regulations.**

5.1. No person shall, for the purposes of taking or attempting to take, attracting, or scouting any wild animal in West Virginia, possess or use any substance or material that contains or purports to contain any excretion collected from a cervid, including feces, urine, blood, gland oil, or other bodily fluid.