

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #3

Do Not Mark In this Box

FILED
1999 JAN 27 AM 10:13
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: WV Department of Natural Resources TITLE NUMBER: 47

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

AMENDMENT TO AN EXISTING RULE: YES NO

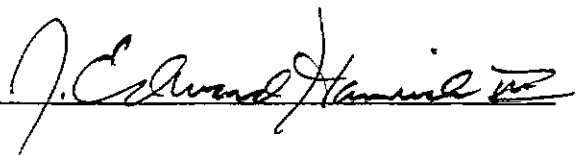
IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

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"

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.



FISCAL NOTE FOR PROPOSED RULES

FILED

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

1988 DEC 16 PM 12:37

Type of Rule: 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		FISCAL YEAR	
		Decrease \$	Current \$	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.

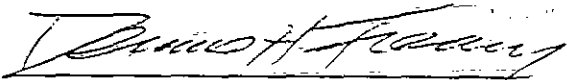
3. Objectives of These Rules:

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


 Ronald R. Potesta
 Director

DATE: January 27, 1989

FILED

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

1989 JAN 27 AM 10:13

FROM: West Virginia Department of Natural Resources

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

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

1. Authorizing statute(s) citation:

West Virginia Code Chapter 20, Article 2, Sections 11 and 12

2. a. Date filed in State Register with Notice of Hearing:

December 16, 1988

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

An official Department News Release was sent to all West Virginia newspapers and radio and television stations.

c. Date(s) of hearing(s): January 23, 1989

d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.

Attached _____ No comments received X

e. Date you filed in State Register the agency-approved proposed Legislative Rule following public hearing:

January 27, 1989

f. Name and phone number of agency person to contact for additional information:

Mr. Dennis H. Treacy, Administrator
Office of Environmental & Regulatory Affairs
348-2754

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:

NOT APPLICABLE

- 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.

- b. Date of hearing: _____

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

- d. Attach findings and determinations and reasons:

**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: Agency-Approved Rule

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.

RESPONSE TO COMMENTS: A public hearing on this proposal was held on January 23, 1989 and written comments were received by the Department until 4:30 p.m. on that day. No interested individual attended the public hearing and no written comments were received concerning the proposal. Therefore, the Department is approving this rule as it was proposed on December 16, 1988.

TITLE 47
LEGISLATIVE RULES
DEPARTMENT OF NATURAL RESOURCES

FILED

1989 JAN 27 AM 10:13

SERIES 16
TRANSPORTING AND SELLING WILDLIFE PELTS

OFFICE OF WEST VIRGINIA
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.



STATE OF WEST VIRGINIA
DEPARTMENT OF NATURAL RESOURCES
CHARLESTON 25305

GASTON CAPERTON
Governor

J. EDWARD HAMRICK III
Director

January 30, 1989

LARRY W. GEORGE
Deputy Director

Mr. Rich O. Hartman, Director
Administrative Law Division
West Virginia Secretary of State
Building 1, State Capitol Complex
Charleston, West Virginia 25305

Dear Rich,

In response to comments from members of your staff, the Department of Natural Resources asks that the title of its proposed Series 16 legislative rule be changed. We request that the original title of this rule -- "Tagging, Transporting, and Selling the Raw Furs, Pelts, or Skins of Wildlife" -- be changed to "Transporting and Selling Wildlife Pelts." The Notice of Agency Approval for this rule was filed with your office on Friday, January 27, 1989. If you have any questions, please call me at 348-2761.

Sincerely,

Jeffrey E. Herrold
Regulatory Analyst

cc: Debra Graham

FILED
1989 FEB - 1 AM 9:16
OFFICE OF THE SECRETARY OF STATE
STATE OF WEST VIRGINIA