

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #6

Do Not Mark In this Box

FILED

JUN 24 12 37 PM '93

SECRETARY OF STATE

NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE.

AGENCY: Commerce, Labor and Environmental Resources TITLE NUMBER: 47

AMENDMENT TO AN EXISTING RULE: YES , NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 23

TITLE OF RULE BEING AMENDED: Commercial Sale of Wildlife

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: _____

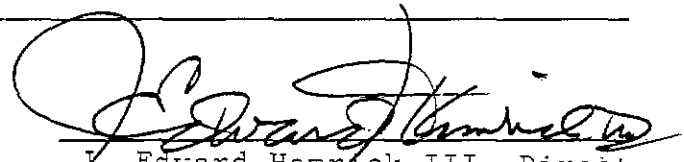
TITLE OF RULE BEING PROPOSED: _____

THE ABOVE RULE HAS BEEN AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE.

AUTHORIZATION IS CITED IN (house or senate bill number) HB 100

SECTION 64-3-8(vv), PASSED ON May 26, 1993

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON THE FOLLOWING DATE: July 1, 1993


J. Edward Hamrick III, Director
Division of Natural Resources

3.00



KEN HECHLER
Secretary of State

MARY P. RATLIFF
Deputy Secretary of State

A. RENEE COE
Deputy Secretary of State

CATHERINE FREROTTE
Executive Assistant

Telephone: (304) 558-6000
Corporations: (304) 558-8000

STATE OF WEST VIRGINIA

SECRETARY OF STATE

Building 1, Suite 157-K
1900 Kanawha Blvd., East
Charleston, WV 25305-0770

WILLIAM H. HARRINGTON
Chief of Staff

JUDY COOPER
Director, Administrative Law

DONALD R. WILKES
Director, Corporations

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

(All the volunteer help we can get)
AUG 9 9 53 AM '93
FAX: (304) 558-0900

FILED

TO: Jim Ruckle

AGENCY: Div. of Natural Resources

FROM: JUDY COOPER, DIRECTOR, ADMINISTRATIVE LAW DIVISION

DATE: July 26, 1993

THE ATTACHED RULE FILED BY YOUR AGENCY HAS BEEN ENTERED INTO OUR COMPUTER SYSTEM. PLEASE REVIEW, PROOF AND RETURN IT WITH ANY CORRECTIONS. IF THERE ARE NO CORRECTIONS, PLEASE SIGN THIS MEMO AND RETURN IT TO THIS OFFICE. YOU WILL BE SENT A FINAL VERSION OF THE RULE FOR YOUR RECORDS.

PLEASE RETURN EITHER THE CORRECTED RULE OR THIS FORM WITHIN TEN (10) WORKING DAYS OF THE DATE YOU RECEIVED THIS REQUEST. CALL IF YOU HAVE ANY QUESTIONS.

SERIES: 23 TITLE: 47 Div. of Natural Resources

* THE ATTACHED RULE HAS BEEN REVIEWED AND IS CORRECT.

SIGNED: _____

TITLE OF PERSON SIGNING: _____

DATE: _____

* THE ATTACHED RULE HAS BEEN REVIEWED AND NEEDS CORRECTING. THE CORRECTIONS HAVE BEEN MARKED.

✓ SIGNED: James Ruckle

TITLE OF PERSON SIGNING: Assistant Chief in Charge of Game Management

DATE: 8-5-93

NOTE: IF YOU ARE NOT THE PERSON WHO HANDLES THIS RULE, PLEASE FORWARD TO THE CORRECT PERSON.

TITLE 47
LEGISLATIVE RULES
DEPARTMENT OF COMMERCE, LABOR AND ENVIRONMENTAL RESOURCES
DIVISION OF NATURAL RESOURCES

SERIES 23
COMMERCIAL SALE OF WILDLIFE

§ 47-23-1. General.

1.1. Scope. -- This legislative rule establishes regulations to govern the sale of wildlife raised under licenses issued by the Department killing, taking, trapping, possession, buying, selling, offering to buy or sell, barter, or attempt to take, trap, possess or barter any wildlife, as defined in section 2.3 of this regulation or any other species designated by the director, from the wild, or the eggs of any wildlife or designated species from the wild for commercial purposes pursuant to W. Va. Code §§ 20-2-11, 20-2-47 and 20-2-48.

1.2. Authority. -- W. Va. Code §§ 20-2-11, 20-2-47, and 20-2-48.

1.3. Filing Date. --

1.4. Effective Date. -- July 1, 1993

§ 47-23-2. Definitions.

2.1. "Facility" means the property on which a person engages in an activity for which one of the licenses listed in Section 2.2 of this regulation is required by statute and includes, but is not limited to, buildings, enclosures, grounds, impoundments, and ponds.

2.2. "Licensee" means a person who has been granted one of the following permits and licenses issued by the Division:

2.2.1. A license for the operation of a private game preserve for the propagation of wild animals or wild birds for commercial purposes (W. Va. Code § 20-2-47). This license authorizes the holder to breed or raise such animals and birds as specified by the license, to sell the wild animals or wild birds, dead or alive, or to sell the eggs of birds in accordance with the provisions of this regulation.

2.2.2. A license for the operation of a private plant, pond, or business for the propagation, sale, or purchase of fish, frogs, turtles, or other forms of aquatic life for commercial purposes (W. Va. Code § 20-2-48). This license authorizes the

holder to breed or raise such species as specified by the license and to buy and sell the fish, frogs, turtles or other form of aquatic life, dead or alive or the eggs thereof in accordance with the provisions of this regulation.

2.3. "Wildlife" means wild animals, wild birds, fish, frogs and other amphibians, turtles, and all forms of aquatic life used as fish bait.

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

§ 47-23-3. Wildlife Acquisition.

3.1. Wildlife held by a licensee shall have been:

3.1.1. Obtained from a person licensed by the Department to sell wildlife in this State;

3.1.2. Imported into this State under the provisions of W. Va. Code § 20-2-13; or

3.1.3. Born at the licensee's facility, the offspring of wildlife legally held by the licensee.

3.2. If a licensee acquires wildlife in the manner specified in Section 3.1.1 of this regulation, a bill of sale from the supplying vendor must be retained by the licensee as proof of legal acquisition.

3.3. If a licensee acquires wildlife in the manner specified in Section 3.1.2 of this regulation, the importation permit issued by the Division must be retained by the licensee as proof of legal acquisition.

3.4. If a licensee acquires wildlife in the manner specified in Section 3.1.3 of this regulation, a record must be kept by the licensee in accordance with the provisions of Section 5 of this regulation.

§ 47-23-4. Wildlife Sales.

4.1. The licensee shall provide a bill of sale to each person who purchases the licensee's wildlife. The bill of sale shall, at a minimum, contain the following information:

4.1.1. The seller's name and address;

4.1.2. The seller's license number;

4.1.3. The date of the sale;

4.1.4. The purchaser's name and address; and

4.1.5. A description of the wildlife sold, including the number of each species sold.

4.1.5.a. For sales of fish, this description shall include the number of pounds of each species sold.

§ 47-23-5. Record Keeping.

5.1. Accurate and current records of all wildlife acquisitions and sales shall be maintained by the licensee. The licensee shall also maintain records on all wildlife born at the licensee's facility. All records shall be either typed or written in plain and legible English and shall include the full name, address, and telephone number of each person with whom a wildlife transaction has been conducted. All records shall be maintained by the licensee at his or her facility for a minimum period of three (3) years.

§ 47-23-6. Inspections.

6.1. A licensee's facility, records, or wildlife may be inspected by an authorized representative of the director, on a case by case basis, to assure compliance with all requirements mandated by statute or regulation or by the terms and conditions of the licensee's permit or license.

§ 47-23-7. Possession for commercial purposes prohibited.

The following species shall not be taken from the wild or possessed for any commercial purpose except as authorized pursuant to W. Va. Code §§ 20-2-11, 20-2-47 or 20-2-48.

7.1. It is illegal to catch, capture, sell, trade, take or kill by seine, net, bait, trap, or any other means, or to have in one's possession, or to transport into or out of the state any of the following species of turtles or their eggs for commercial purposes:

Common snapping turtle (*Chelydra serpentina serpentina*),

Eastern painted turtle (*Chrysemys picta picta*),

Eastern river cooter (*Pseudemys concinna concinna*),

Eastern spiny softshell (*Apalone spinifera spinifera*),

Hieroglyphic turtle (*Pseudemys concinna hieroglyphica*),

Map turtle (*Graptemys geographica*),

Midland painted turtle (*Chrysemys picta marginata*),

Midland smooth softshell (*Apalone mutica*),

Ouachita map turtle (*Graptemys pseudogeographica*
ouachitensis),

Redbelly turtle (*Pseudemys rubriventris*),

Red-eared slider (*Trachemys scripta elegans*),

Spotted turtle (*Clemmys guttata*),

Stinkpot (*Sternotherus odoratus*), and

Wood turtle (*Clemmys insculpta*).

§ 47-23-8. Penalties.

A violation of this regulation constitutes a misdemeanor for each offense in accordance with W.Va. code § 20-2-11 and each misdemeanor offense is subject to the penalties provided for in W. Va. code § 20-7-9.

KEN HECHLER
Secretary of State

MARY P. RATLIFF
Deputy Secretary of State

A. RENEE COE
Deputy Secretary of State

CATHERINE FREROTTE
Executive Assistant

Telephone: (304) 558-6000
Corporations: (304) 558-8000



STATE OF WEST VIRGINIA

SECRETARY OF STATE

Building 1, Suite 157-K
1900 Kanawha Blvd., East
Charleston, WV 25305-0770

WILLIAM H. HARRINGTON
Chief of Staff

JUDY COOPER
Director, Administrative Law

DONALD R. WILKES
Director, Corporations

(Plus all the volunteer
help we can get)

FAX: (304) 558-0900

May 28, 1993

Bill Daniels
Natural Resources
Building 3, Room 832
1900 Kanawha Boulevard
Charleston, WV 25305

HB 100 authorizing, **Title 47, Series 23, Commercial Sale of Wildlife**, passed the Legislature on **May 26, 1993**. It is now awaiting the Governor's signature.

You have sixty (60) days after the Governor signs HB 100, to final file the legislative rule with the Secretary of State's office. To final file your legislative rule, fill in the blanks on the enclosed form #6, the "Final Filing" form and file the form with our office. Authorization for your legislative rule is cited in **HB 100** section **64-3-8(vv)**. The agency may set the effective date of the legislative rule up to ninety (90) days from the date the legislative rule is final filed with the Secretary of State's office. Please have an authorized signature on the bottom line.

*****IMPORTANT: IF YOUR AGENCY HAS COMPLETED THE LEGISLATIVE RULE ON A COMPUTER SYSTEM THAT USES A 3 1/2" OR 5 1/4" DISK, PLEASE SUBMIT A CLEAN COPY, WITH ALL UNDERLINING AND STRIKE-THROUGHS TAKEN OUT, TO OUR OFFICE WHEN FINAL FILING THE RULE. STATE ON THE DISK THE FORMAT THE RULE IS IN AND THE TITLE IT IS FILED UNDER. THIS WILL MAKE IT QUICKER FOR US TO ENTER YOUR RULES ON THE LEGISLATIVE DATA BASE. REMEMBER THE TEXT OF THE COMPUTER FILED RULE MUST BE IDENTICAL - WORD FOR WORD, COMMA FOR COMMA, WITH ALL UNDERLINING AND STRIKE-THROUGHS TAKEN OUT, AS THE HARD COPY AUTHORIZED BY THE LEGISLATURE.**

After the final rule is entered into the legislative data base, the rule will be sent to the agency for review and proofing. Following confirmation or corrections, as the case may be, the Secretary of State shall submit to the agency a final version of the rule for their records.

If you have any questions or need any assistance, please do not hesitate to call our office.

Thank You
Administrative Law Division

SENATE BILL NO. 152

(By **Senator Manchin**)

[Introduced March 1, 1993; referred to the
Committee on Natural Resources; and then to
the Committee on the Judiciary.]

8

9 :

10 A BILL to amend and reenact section eight, article three, chapter
11 sixty-four of the code of West Virginia, one thousand nine
12 hundred thirty-one, as amended, relating to authorizing the
13 division of natural resources to promulgate legislative rules
14 relating to the commercial sale of wildlife.

15 Be it enacted by the Legislature of West Virginia:

16 That section eight, article three, chapter sixty-four of the
17 code of West Virginia, one thousand nine hundred thirty-one, as
18 amended, be amended and reenacted, to read as follows:

19 ARTICLE 3. AUTHORIZATION FOR DEPARTMENT OF COMMERCE, LABOR AND
20 ENVIRONMENTAL RESOURCES TO PROMULGATE LEGISLATIVE RULES.

21 §64-3-8. Division of natural resources.

22 (a) The legislative rules filed in the state register on the
23 eighth day of December, one thousand nine hundred eighty-three,

1 relating to the department of natural resources (surface mining),
2 are authorized with the amendments set forth below:

3 Page 3-4, §3E.01 by adding after the word "engineer" the
4 words "or licensed land surveyor."

5 Page 3-5, §3E.02, subsection (a), by adding after the word
6 "mining" the words "or civil."

7 And,

8 Page 3-5, §3E.02, subsection (b), by adding after the first
9 sentence -- "Those persons who have been approved to date need
10 not make said demonstration."

11 (b) The legislative rules filed in the state register on the
12 twentieth day of January, one thousand nine hundred eighty-four,
13 relating to the department of natural resources (solid waste
14 management), are authorized with the amendments set forth below:

15 Page 9, section 4.04, line five, add the following paragraph:

16 "Upon request of any applicant, the division shall meet with
17 the applicant for prefiling review of the application. The
18 division, with the cooperation of the solid waste authority,
19 shall assist the applicant in preparing a complete and proper
20 application which would not be rejected as incomplete."

21 On page 15, section 6.03(c)(1) in the first full sentence,
22 after the word "cease", strike the remainder of the sentence and
23 insert in lieu thereof the words "within fifteen (15) days of
24 receipt of an order of suspension" and in the second sentence
25 strike the word "recommence" and insert the words "continue

1 beyond fifteen (15) days"; (c)(2) in the first full sentence,
2 after the word "cease" by striking out the remainder of the
3 sentence and insert in lieu thereof the words "immediately upon
4 receipt of an order of revocation."

5 (c) The legislative rules filed in the state register on the
6 twenty-sixth day of September, one thousand nine hundred
7 eighty-four, relating to the department of natural resources
8 (public use of state parks, forests, hunting and fishing areas),
9 are authorized.

10 (d) The legislative rules filed in the state register on the
11 seventh day of November, one thousand nine hundred eighty-four,
12 relating to the department of natural resources (surface mining
13 reclamation), are authorized.

14 (e) The legislative rules filed in the state register on the
15 seventh day of November, one thousand nine hundred eighty-four,
16 relating to the department of natural resources (coal refuse
17 disposal), are authorized.

18 (f) The legislative rules filed in the state register on the
19 ninth day of November, one thousand nine hundred eighty-four,
20 relating to the department of natural resources (transfer of the
21 state national pollutant discharge elimination system program),
22 are authorized with the amendment set forth below:

23 Page 10-5, by striking §10B.19 and inserting in lieu thereof
24 a new §10B.19, to read as follows: "'Effluent limitations
25 guidelines' means a regulation published by the Administrator

1 under Section 304(b) or Section 301(b)(1)(B) of the CWA to adopt
2 or revise effluent limitations or levels of effluent quality
3 attainable through the application of secondary or equivalent
4 treatment. For the coal industry these regulations are published
5 at 40 C.F.R. Parts 434 and 133. (See: Appendix G and H)."

6 (g) The legislative rules filed in the state register on the
7 twenty-eighth day of August, one thousand nine hundred
8 eighty-four, relating to the department of natural resources
9 (small arms hunting), are authorized.

10 (h) The legislative rules filed in the state register on the
11 sixth day of January, one thousand nine hundred eighty-four,
12 relating to the department of natural resources (hazardous waste
13 management), are authorized.

14 (i) The legislative rules filed in the state register on the
15 third day of December, one thousand nine hundred eighty-four,
16 modified by the department of natural resources to meet the
17 objections of the legislative rule-making review committee and
18 refiled in the state register on the thirteenth day of February,
19 one thousand nine hundred eighty-five, relating to the department
20 of natural resources (hazardous waste management), are
21 authorized.

22 (j) The legislative rules filed in the state register on the
23 tenth day of October, one thousand nine hundred eighty-five,
24 relating to the department of natural resources (hazardous waste
25 management: Small quantity generators and waste minimization

1 certification), are authorized with the amendment set forth
2 below:

3 On page 1, §3.1.4b, delete the word "or" in the reference to
4 "paragraph (g) or (j)" and insert in lieu thereof the words "and,
5 if applicable."

6 (k) The legislative rules filed in the state register on the
7 ninth day of September, one thousand nine hundred eighty-five,
8 relating to the department of natural resources (WV/NPDES
9 regulations for the coal mining point source category and related
10 sewage facilities), are authorized.

11 (l) The legislative rules filed in the state register on the
12 eleventh day of December, one thousand nine hundred eighty-five,
13 modified by the department of natural resources to meet the
14 objections of the legislative rule-making review committee and
15 refiled in the state register on the twentieth day of February,
16 one thousand nine hundred eighty-six, relating to the department
17 of natural resources (hazardous waste management), are
18 authorized.

19 (m) The legislative rules filed in the state register on the
20 twenty-sixth day of September, one thousand nine hundred
21 eighty-six, modified by the department of natural resources to
22 meet the objections of the legislative rule-making review
23 committee and refiled in the state register on the ninth day of
24 December, one thousand nine hundred eighty-six, relating to the

1 department of natural resources (hazardous waste management
2 regulations), are authorized.

3 (n) The legislative rules filed in the state register on the
4 seventh day of August, one thousand nine hundred eighty-six,
5 relating to the director of the department of natural resources
6 (procedures for transporting and dealing in furbearing animals),
7 are authorized.

8 (o) The legislative rules filed in the state register on the
9 thirtieth day of December, one thousand nine hundred eighty-six,
10 relating to the department of natural resources (WV/NPDES program
11 for coal mines and preparation plants, and the refuse and waste
12 therefrom), are authorized with the amendments set forth below:

13 On page four, §1.9.1.a by inserting the words "five thousand
14 dollars or" after the words "'significant portion of income'
15 means."

16 And,

17 On page four, §1.9.1.a by inserting the words "whichever is
18 less," after the words "ten percent or more of gross personal
19 income for a calendar year."

20 (p) The legislative rules filed in the state register on the
21 fifth day of March, one thousand nine hundred eighty-six,
22 relating to the department of natural resources (hazardous waste
23 management), are authorized.

24 (q) The legislative rules filed in the state register on the
25 twelfth day of August, one thousand nine hundred eighty-seven,

1 relating to the department of natural resources (WV/NPDES
2 regulations for coal mining facilities), are authorized.

3 (r) The legislative rules filed in the state register on the
4 tenth day of June, one thousand nine hundred eighty-seven,
5 relating to the director of the department of natural resources
6 (outfitters and guides), are authorized.

7 (s) The legislative rules filed in the state register on the
8 ninth day of January, one thousand nine hundred eighty-seven,
9 relating to the department of natural resources (hazardous waste
10 management regulations), are authorized.

11 (t) The legislative rules filed in the state register on the
12 fifth day of March, one thousand nine hundred eighty-seven,
13 relating to the department of natural resources (hazardous waste
14 management regulations, series 35), are authorized.

15 (u) The legislative rules filed in the state register on the
16 seventh day of December, one thousand nine hundred eighty-seven,
17 relating to the department of natural resources (hazardous waste
18 management regulations, series 35), are authorized.

19 (v) The legislative rules filed in the state register on the
20 sixteenth day of December, one thousand nine hundred
21 eighty-seven, modified by the department of natural resources to
22 meet the objections of the legislative rule-making review
23 committee and refiled in the state register on the fourteenth day
24 of January, one thousand nine hundred eighty-eight, relating to

1 the department of natural resources (solid waste management), are
2 authorized.

3 (w) The legislative rules filed in the state register on the
4 twenty-eighth day of July, one thousand nine hundred
5 eighty-seven, modified by the director of the department of
6 natural resources to meet the objections of the legislative
7 rule-making review committee and refiled in the state register on
8 the seventh day of August, one thousand nine hundred
9 eighty-seven, relating to the director of the department of
10 natural resources (boating regulations), are authorized with the
11 amendment set forth below:

12 On page 16, section 6.2, line 3 by inserting following the
13 period "This regulation does not apply to licensed outfitters
14 and guides." These rules were proposed by the director of the
15 department of natural resources pursuant to section seven,
16 article one and section twenty-two, article seven, chapter twenty
17 of this code.

18 (x) The legislative rules filed in the state register on the
19 second day of September, one thousand nine hundred eighty-eight,
20 modified by the department of natural resources to meet the
21 objections of the legislative rule-making review committee and
22 refiled in the state register on the seventeenth day of October,
23 one thousand nine hundred eighty-eight, relating to the
24 department of natural resources (hazardous waste management), are
25 authorized.

1 (y) The legislative rules filed in the state register on the
2 thirty-first day of August, one thousand nine hundred
3 eighty-eight, relating to the director of the department of
4 natural resources (boating), are authorized.

5 (z) The legislative rules filed in the state register on the
6 eighth day of March, one thousand nine hundred eighty-eight,
7 modified by the director of the department of natural resources
8 to meet the objections of the legislative rule-making review
9 committee and refiled in the state register on the thirtieth day
10 of August, one thousand nine hundred eighty-eight, relating to
11 the director of the department of natural resources (commercial
12 sale of wildlife), are authorized.

13 (aa) The legislative rules filed in the state register on the
14 twenty-seventh day of January, one thousand nine hundred
15 eighty-eight, relating to the director of the department of
16 natural resources (catching and selling bait fish), are
17 authorized.

18 (bb) The legislative rules filed in the state register on the
19 twenty-fifth day of March, one thousand nine hundred
20 eighty-eight, relating to the director of the department of
21 natural resources (West Virginia public hunting and fishing
22 areas), are authorized with the following amendment:

23 On page three, section 3.8.4, by inserting after the word
24 "vehicle" the following: ", all terrain vehicle (ATV)."

1 (cc) The legislative rules filed in the state register on the
2 seventeenth day of March, one thousand nine hundred eighty-nine,
3 modified by the division of natural resources to meet the
4 objections of the legislative rule-making review committee and
5 refiled in the state register on the sixteenth day of January,
6 one thousand nine hundred ninety, relating to the division of
7 natural resources (solid waste management), are authorized with
8 the amendments set forth below:

9 On page 13, Section 3.2.6, by deleting the current language
10 and inserting in lieu thereof the following:

11 "3.2.6. Within two hundred (200) feet of faults that have
12 had displacement in Holocene time (i.e., during the last eleven
13 thousand years);"

14 On page 64, Section 3.14.25, by deleting the current language
15 and inserting in lieu thereof the following language:

16 "3.14.25. **Environmental Compliance History.** The chief or
17 the director may refuse to grant any permit if he has reasonable
18 cause to believe, as indicated by documented evidence, that the
19 applicant, or any officer, director or manager, thereof, or
20 shareholder owning twenty percent (20%) or more of its capital
21 stock, beneficial or otherwise, or other person conducting or
22 managing the affairs of the applicant or of the proposed
23 permitted premises, in whole or part, has exhibited a pattern of
24 violation of the environmental statutes or regulations of this
25 State, any other state, or the federal government."

1 On page 104, section 4.5.4.a, by inserting after the words
2 "at that landfill" the following:

3 "Nothing within these regulations shall be construed to allow
4 the installations of any liner or system on areas not lined as of
5 November 30, 1989, that is not in conformance with section
6 4.5.4.a.E or 4.5.4.a.G of these regulations. Landfills that do
7 have an article 5f permit and a liner installed as of November
8 30, 1989, may install a liner as approved by the chief."

9 And,

10 On pages 147 through 151, sections 4.11.5 and 4.11.6, by
11 deleting the current language and inserting in lieu thereof the
12 following:

13 "4.11.5. Corrective Action Program.

14 Whenever a statistically significant increase is found in a
15 Phase II or Phase III monitoring parameter, or when groundwater
16 contamination is otherwise identified by the Chief at sites
17 without monitoring programs, which is determined by the Chief to
18 have resulted in a significant adverse effect on an aquifer, and
19 which is attributable to a solid waste facility, the Chief may
20 require appropriate corrective or remedial action pursuant to W.
21 Va. Code Chapter 20, article 5A, and Chapter 20, article 5F to
22 abate, remediate or correct such pollution. Any such corrective
23 or remedial action order shall take into account any applicable
24 groundwater quality protection standards, the existing use of

1 such waters, the reasonable uses of such waters, background water
2 quality, and the protection of human health and the environment."

3 (dd) The legislative rules filed in the state register on the
4 seventeenth day of February, one thousand nine hundred
5 eighty-nine, relating to the director of the department of
6 natural resources (underground storage tanks), are authorized.

7 (ee) The legislative rules filed in the state register on the
8 twenty-seventh day of January, one thousand nine hundred
9 eighty-nine, relating to the director of the department of
10 natural resources (transporting and selling wildlife pelts), are
11 authorized.

12 (ff) The legislative rules filed in the state register on the
13 seventeenth day of February, one thousand nine hundred
14 eighty-nine, modified by the director of the department of
15 natural resources to meet the objections of the legislative
16 rule-making review committee and refiled in the state register on
17 the ninth day of August, one thousand nine hundred eighty-nine,
18 relating to the director of the department of natural resources
19 (underground storage tank fee assessments), are authorized,

20 (gg) The legislative rules filed in the state register on the
21 twenty-fourth day of April, one thousand nine hundred
22 eighty-nine, modified by the director of the department of
23 natural resources to meet the objections of the legislative
24 rule-making review committee and refiled in the state register on
25 the twenty-second day of May, one thousand nine hundred

1 eighty-nine, relating to the director of the department of
2 natural resources (public hunting and fishing areas), are
3 authorized.

4 (hh) The legislative rules filed in the state register on the
5 first day of December, one thousand nine hundred eighty-nine,
6 relating to the department of natural resources (water pollution
7 control permit fee schedules), are authorized with the amendments
8 set forth below:

9 On page five, section 3.3, by deleting the following:
10 "Submitted fees are not refundable."

11 On page two, after section 2.6, by inserting the following:

12 "Customer" means any person that purchases waste disposal
13 services from a facility permitted under article five-a, chapter
14 twenty of the code of West Virginia, one thousand nine hundred
15 thirty-one, as amended. For the purposes of these regulations,
16 commercial and other non-single family dwelling customers shall
17 be translated into customer equivalents by dividing the total
18 daily estimated volume of waste water by three hundred and fifty
19 gallons per day." and renumbering the remaining subsections.

20 On page nine, section 7.2, by striking out the words "seven
21 hundred fifty dollars (\$750)." and inserting in lieu thereof the
22 following:

23 "determined using Table D, but in no case shall be less than
24 two hundred fifty dollars (\$250)."

25 And,

1 On page thirteen, by striking out all of Table D, Schedule of
2 Annual Permit Fees, and inserting in lieu thereof a new Table D,
3 designated "Schedule of Annual Permit Fees", to read as follows:

4 "TABLE D

5 SCHEDULE OF ANNUAL PERMIT FEES

6 SEWAGE FACILITIES

7	Number of Customers	Annual Permit Fee
8	less than 1000	\$ 250
9	1000 to 1499	\$ 500
10	1500 to 1999	\$ 750
11	2000 to 2499	\$ 1000
12	2500 to 2999	\$ 1250
13	3000 to 3499	\$ 1500
14	3500 to 3999	\$ 1750
15	4000 to 4499	\$ 2000
16	4500 to 4999	\$ 2250
17	greater than 5000	\$ 2500

18 INDUSTRIAL OR OTHER WASTE FACILITIES

19	Average Discharge Volume	Annual Permit Fee
20	(gallons per day)	
21	less than 1,000	\$ 50
22	1,001 to 10,000	\$ 500
23	10,001 to 50,000	\$ 1000
24	greater than 50,000	\$ 2500"

1 (ii) The legislative rules filed in the state register on the
2 twenty-fifth day of July, one thousand nine hundred eighty-nine,
3 modified by the director of the department of natural resources
4 to meet the objections of the legislative rule-making review
5 committee and refiled in the state register on the fifteenth day
6 of September, one thousand nine hundred eighty-nine, relating to
7 the director of the department of natural resources (revocation
8 of hunting and fishing licenses), are authorized.

9 (jj) The legislative rules filed in the state register on the
10 twentieth day of December, one thousand nine hundred eighty-nine,
11 modified by the division of natural resources to meet the
12 objections of the legislative rule-making review committee and
13 refiled in the state register on the twenty-fourth day of
14 January, one thousand nine hundred ninety, relating to the
15 division of natural resources (state water pollution control
16 revolving fund program), are authorized.

17 (kk) The legislative rules filed in the state register on the
18 twenty-ninth day of March, one thousand nine hundred ninety,
19 modified by the division of natural resources to meet the
20 objections of the legislative rule-making review committee and
21 refiled in the state register on the thirtieth day of August, one
22 thousand nine hundred ninety, relating to the division of natural
23 resources (assessment of civil administrative penalties), are
24 authorized.

1 (ll) The legislative rules filed in the state register on the
2 sixth day of August, one thousand nine hundred ninety, relating
3 to the division of natural resources (water pollution control
4 permit fee schedules), are authorized.

5 (mm) The legislative rules filed in the state register on the
6 fifteenth day of June, one thousand nine hundred ninety, modified
7 by the division of natural resources to meet the objections of
8 the legislative rule-making review committee and refiled in the
9 state register on the twenty-second day of August, one thousand
10 nine hundred ninety, relating to the division of natural
11 resources (underground storage tank insurance trust fund), are
12 authorized with the amendment set forth below:

13 On page four, after subsection 5.1, by inserting a new
14 subdivision 5.1.1 to read as follows:

15 "5.1.1 The fee shall be one hundred dollars per tank per
16 year (\$100/tank/year) for a period of not less than one (1) year
17 and not more than three (3) years. Second and third year
18 capitalization fees may be levied if there is an inadequate
19 surplus of funds, as determined by the Board of Risk and
20 Insurance Management, the Division of Natural Resources and the
21 Underground Storage Tank Advisory Committee pursuant to W. Va.
22 Code, §20-5H-7."

23 (nn) The legislative rules filed in the state register on the
24 thirteenth day of August, one thousand nine hundred ninety,
25 modified by the division of natural resources to meet the

1 objections of the legislative rule-making review committee and
2 refiled in the state register on the second day of October, one
3 thousand nine hundred ninety, relating to the division of natural
4 resources (underground storage tanks), are authorized with the
5 amendment set forth below:

6 On page four, section five, subsection 5.1, after the word
7 "requirements" by striking out the remainder of the subsection
8 and inserting in lieu thereof, the following:

9 "of Title 47, Series 37 (Underground Storage Tank Fee
10 Assessments); Title 47, Series 36, Section 4 (Notification
11 Requirements); and Title 47, Series 37A, Section 5
12 (Capitalization Fees) of the Code of State Regulations and the
13 owner or operator presents proof of the certification to the
14 carrier."

15 (oo) The legislative rules filed in the state register on the
16 thirteenth day of August, one thousand nine hundred ninety,
17 relating to the division of natural resources (dam safety), are
18 authorized.

19 (pp) The legislative rules filed in the state register on the
20 thirteenth day of August, one thousand nine hundred ninety,
21 modified by the division of natural resources to meet the
22 objections of the legislative rule-making review committee and
23 refiled in the state register on the twenty-eighth day of
24 November, one thousand nine hundred ninety, relating to the

1 division of natural resources (hazardous waste management), are
2 authorized.

3 (qq) The legislative rules filed in the state register on the
4 first day of July, one thousand nine hundred ninety-one, modified
5 by the division of natural resources to meet the objections of
6 the legislative rule-making review committee and refiled in the
7 state register on the nineteenth day of September, one thousand
8 nine hundred ninety-one, relating to the division of natural
9 resources (special motorboating regulations), are authorized.

10 (rr) The legislative rules filed in the state register on the
11 first day of May, one thousand nine hundred ninety-one, modified
12 by the division of natural resources to meet the objections of
13 the legislative rule-making review committee and refiled in the
14 state register on the twenty-second day of July, one thousand
15 nine hundred ninety-one, relating to the division of natural
16 resources (special fishing regulations), are authorized with the
17 amendment set forth below:

18 On page one, by striking out subsection 2.1 and inserting in
19 lieu thereof, a new subsection 2.1, to read as follows:

20 "2.1 "Daylight hours" means the time period between sixty
21 minutes before sunrise and sixty minutes after sunset."

22 (ss) The legislative rules filed in the state register on the
23 first day of July, one thousand nine hundred ninety-one, modified
24 by the division of natural resources to meet the objections of
25 the legislative rule-making review committee and refiled in the

1 state register on the twenty-first day of November, one thousand
2 nine hundred ninety-one, relating to the division of natural
3 resources (boating regulations), are authorized.

4 (tt) The Legislature hereby authorizes and directs the
5 division of natural resources to promulgate the legislative rule
6 relating to water pollution control permit fee schedules, 47 CSR
7 26, effective the twenty-second day of April, one thousand nine
8 hundred ninety-one, with the amendment set forth below:

9 On page eight, subdivision 7.4.1, at the end of the
10 subdivision by striking the period and adding the following:

11 ": Provided, That if the chief determines that a facility is
12 in substantial compliance with its existing permit, the fee is
13 one thousand two hundred fifty dollars (\$1,250.00)."

14 (uu) The legislative rules filed in the state register on the
15 seventeenth day of September, one thousand nine hundred ninety-
16 two, modified by the division of natural resources to meet the
17 objections of the legislative rule-making review committee and
18 refiled in the state register on the sixteenth day of December,
19 one thousand nine hundred ninety-two, relating to the division of
20 natural resources (commercial sale of wildlife), are authorized.

21

22 NOTE: The purpose of this bill is to authorize the Division
23 of Natural Resources to promulgate legislative rules relating to
24 the commercial sale of wildlife.

25

26 Strike-throughs indicate language that would be stricken from
27 the present law, and underscoring indicates new language that
28 would be added.