

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #3

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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, 20-2-47, and 20-2-48

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

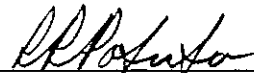
TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: 23

TITLE OF RULE BEING PROPOSED: _____

Commercial Sale 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.



Ronald R. Potesta, Director

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Commercial Sale of Wildlife

Type of Rule: X Legislative Interpretive Procedural

Agency: West Virginia Department of Natural Resources

Address: 1800 Washington Street East, Charleston, West Virginia 25305

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 proposal formalizes existing licensing requirements; no new administrative expenditures are anticipated.

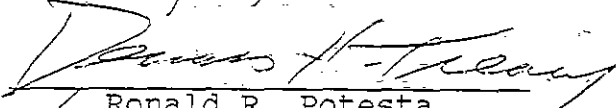
3. Objectives of These Rules:

This proposal establishes sale documentation and record keeping procedures for commercial wildlife dealers who are licensed by the Department pursuant to W. Va. Code §§20-2-47 and 20-2-48.

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: 2/5/88


 Ronald R. Potesta
 Director

**PREAMBLE TO PROPOSED LEGISLATIVE RULE CONCERNING
COMMERCIAL SALE OF WILDLIFE**

REGULATIONS: Department of Natural Resources, Series 23,
Commercial Sale of Wildlife

AUTHORITY: W. Va. Code §§20-2-11, 20-2-47, and 20-2-48

ACTION: Agency Approval of Proposed Legislative Rule

SUMMARY: The Department is proposing a new legislative rule to govern the sale of wildlife raised under licenses issued by the Department pursuant to Sections 20-2-47 and 20-2-48 of the West Virginia Code. This rule would establish documentation of sales and record keeping procedures to be followed by persons licensed to operate private commercial game farms or private commercial fish plants, ponds, and businesses.

RESPONSE TO COMMENTS: A public hearing on this proposal was held on March 7, 1988 in Charleston and written comments were received by the Department until 4:30 p.m. on that day. No interested individual attended the hearing and no comments were received concerning this proposal. Therefore, the Department is approving this rule as it was proposed on February 5, 1988.

*10 TITLE 47
LEGISLATIVE RULES
DEPARTMENT OF NATURAL RESOURCES

SERIES 23
COMMERCIAL SALE OF WILDLIFE

*09 §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 pursuant to W. Va. Code §§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. --

*09 §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 these regulations 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 Department:

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 same dead or alive, or to sell the eggs of birds in accordance with the provisions of these regulations.

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 same dead or alive or the eggs thereof in accordance with the provisions of these regulations.

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 shall have the meaning prescribed in W. Va. Code §20-1-2.

***09 §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. Be 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 these regulations, 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 these regulations, the importation permit issued by the Department 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 these regulations, a record must be kept by the licensee in accordance with the provisions of Section 5 of these regulations.

***09 §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.

***09 §47-23-5. Record Keeping.**

5.1. Accurate and current records of all wildlife acquisitions and sales shall be maintained by the licensee. Records on all wildlife born on the licensee's premises shall also be maintained. 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 the premises housing his wildlife for a minimum period of three (3) years.

***09 §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.