

**WEST VIRGINIA**  
**SECRETARY OF STATE**  
**KEN HECHLER**  
**ADMINISTRATIVE LAW DIVISION**

Form #4

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OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

**NOTICE OF RULE MODIFICATION OF A PROPOSED RULE**

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, FOLLOWING REVIEW BY THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE IS HEREBY MODIFIED AS A RESULT OF REVIEW AND COMMENT BY THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE. THE ATTACHED MODIFICATIONS ARE FILED WITH THE SECRETARY OF STATE.

  
\_\_\_\_\_  
Ronald R. Potesta  
Director

PREAMBLE TO MODIFICATIONS OF AGENCY-APPROVED RULE  
CONCERNING THE COMMERCIAL SALE OF WILDLIFE

FILED

1988 AUG 30 AM 9 04

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

OFFICE OF THE SECRETARY OF STATE

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

ACTION: Modification of Agency-Approved Rule

SUMMARY: The Department is modifying an approved rule in response to comments from the associate counsel to the Legislative Rule-Making Review Committee. On March 8, 1988 the Department filed an agency-approved rule governing the sale of wildlife raised under licenses issued pursuant to Sections 20-2-47 and 20-2-48 of the West Virginia Code. Two grammatical errors have been discovered in the agency-approved rule and are corrected by today's filing.

1. In Section 3.1.3, the incorrect tense of the verb "be" was used and this subsection has been corrected as follows:

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.~~

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

2. In Section 5.1, the term "premises" was used in place of the defined term "facility" and this subsection has been corrected as follows:

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 facility 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 at his facility for a minimum period of three (3) years.

TITLE 47  
LEGISLATIVE RULES  
DEPARTMENT OF NATURAL RESOURCES

SERIES 23  
COMMERCIAL SALE OF WILDLIFE

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SECRETARY OF STATE

§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. --

§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.

**§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 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.

**§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. Records on all wildlife born at the licensee's facility 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 his 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.



WEST VIRGINIA LEGISLATURE  
LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

Room M-438, State Capitol  
Charleston, West Virginia 25305  
(304) 340-3286

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OFFICE OF THE SECRETARY OF STATE

Senator Larry A. Tucker, Co-Chairman  
Delegate Thomas A. Knight, Co-Chairman

August 31, 1988

M. E. Mowery, Counsel  
Debra A. Graham, Associate Counsel  
Marie Nickerson, Receiving Clerk

NOTICE OF ACTIONS TAKEN BY LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

TO: ✓Ken Hechler, Secretary of State, State Register

TO: Mr. Ronald R. Potesta, Director  
Department of Natural Resources  
1800 Washington Street, East  
Charleston, WV 25305

FROM: Legislative Rule-Making Review Committee

PROPOSED RULE: Commercial Sale of Wildlife

The Legislative Rule-Making Review Committee recommends that the West Virginia Legislature:

1. Authorize the agency to promulgate the Legislative Rule
  - (a) as originally filed
  - (b) as modified by the agency   X
2. Authorize the agency to promulgate part of the Legislative rule; a statement of reasons for such recommendation is attached.
3. Authorize the agency to promulgate the Legislative rule with certain amendments; amendments and a statement of reasons for such recommendation is attached.
4. Authorize the agency to promulgate the Legislative rule as modified with certain amendments; amendments and a statement of reasons for such recommendation is attached.
5. Recommends that the rule be withdrawn; a statement of reasons for such recommendation is attached.

Pursuant to Code 29A-3-11(c), this notice has been filed in the State Register and with the agency proposing the rule.

cc: Dennis H. Treacy, Admr.  
Off. Environmental & Reg. Affairs