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September 30, 2002

NOTICE OF EMERGENCY RULE DECISION BY THE SECRETARY OF STATE

AGENCY: Division of Natural Resources

RULE: 58CSR63, Amendments, Commercial Sale of Wildlife

DATE FILED AS AN EMERGENCY RULE: September 27, 2002

DECISION NO. 21-02

Following review under W. Va. Code §29A-3-15a, it is the decision of the Secretary of State that the above emergency rule is **approved**. A copy of the complete decision with required findings is available from this office.

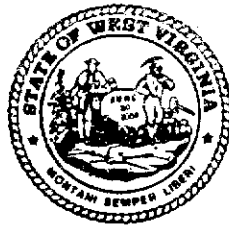

JOE MANCHIN, III
Secretary of State

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EMERGENCY RULE DECISION
(ERD 21-02)

AGENCY: Division of Natural Resources
RULE: 58CSR63, Amendments, Commercial Sale of Wildlife
FILED AS AN EMERGENCY RULE: September 27, 2002

- par. 1 The Division of Natural Resources (DNR) has filed the above amendments to an existing rule as an emergency rule.
- par. 2 W. Va. Code 29A-3-15a requires the Secretary of State to review all emergency rules filed after March 8, 1986. This review requires the Secretary of State to determine if the agency filing such emergency rule: 1) has complied with the procedures for adopting an emergency rule; 2) exceeded the scope of its statutory authority in promulgating the emergency rule; or 3) can show that an emergency exists justifying the promulgation of an emergency rule.
- par. 3 Following review, the Secretary of State shall issue a decision as to whether or not such an emergency rule should be disapproved [§29A-3-15a].
- par. 4 (A) Procedural Compliance: W. Va. Code §29A-3-15 permits an agency to adopt, amend or repeal, without hearing, any legislative rule by filing such rule, along with a statement of the circumstances constituting the emergency, with the Secretary of State and forthwith with the Legislative Rule-Making Review Committee (LRMRC).
- par. 5 If an agency has accomplished the above two required filings with the appropriate supporting documents by the time the emergency rule decision is issued or the expiration of the forty-two day review period, whichever is sooner, the Secretary of State shall rule in favor of procedural compliance.

for CWD. A 36% decline in deer hunting in WV would result in a loss of a minimum of \$2.6 million in license sales and a total loss of \$89 million from deer hunting to the state's economy.

A primary method of spreading the disease has been through the interstate transfer of deer & elk into captive pens. Immediate action must be taken to change WV's laws to prevent the importation into the state & decrease the risks associated with CWD & other wildlife associated diseases from becoming established in our native wildlife.

par. 13 It is the determination of the Secretary of State that this proposal qualifies under the definition of an emergency as defined in §29A-3-15(f). . . "immediate preservation of public peace, health, safety or welfare" & "to prevent substantial harm to the public interest."

par. 14 This decision shall be cited as Emergency Rule Decision 21-02 or ERD 21-02 and may be cited as precedent. This decision is available from the Secretary of State and has been filed with the Division of Natural Resources, the Attorney General and the Legislative Rule Making Review Committee.



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