

**WEST VIRGINIA
SECRETARY OF STATE
BETTY IRELAND
ADMINISTRATIVE LAW DIVISION**

Form #7

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2005 JUN 28 A 10:13

OFFICE WEST VIRGINIA
SECRETARY OF STATE

Effective Date

NOTICE OF AN EMERGENCY RULE

AGENCY: BOC, Division of Natural Resources, Wildlife Section TITLE NUMBER: 58

CITE AUTHORITY: 20-1-7(20) and 20-1-7(30)

EMERGENCY AMENDMENT TO AN EXISTING RULE: YES X NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: Series 64

TITLE OF RULE BEING AMENDED: Miscellaneous Permits and Licenses

IF NO, SERIES NUMBER OF RULE BEING PROPOSED:

TITLE OF RULE BEING PROPOSED:

THE ABOVE RULE IS BEING FILED AS AN EMERGENCY RULE TO BECOME
EFFECTIVE AFTER APPROVAL BY SECRETARY OF STATE OR 42ND DAY AFTER
FILING, WHICHEVER OCCURS FIRST.

THE FACTS AND CIRCUMSTANCES CONSTITUTING THE EMERGENCY ARE
AS FOLLOWS:

Use additional sheets if necessary


Authorized Signature

**TITLE 58
LEGISLATIVE RULE
DIVISION OF NATUAL RESOURCES**

**SERIES 64
MISCELLANEOUS PERMITS AND LICENSES**

SUMMARY

Title 58, Series 64, Miscellaneous Permits and Licenses establishes procedures concerning the application for and renewal of certain permits and licenses issued by the Division and the keeping of records, submission of reports and other terms and conditions associated with such permits and licenses.

**TITLE 58
LEGISLATIVE RULE
DIVISION OF NATURAL RESOURCES**

**SERIES 64
MISCELLANEOUS PERMITS AND LICENSES**

CIRCUMSTANCES

The recent discovery of chronic wasting disease (CWD) in a captive Cervid pen and in wild white-tailed deer in New York has reemphasized the importance of preventive management of our captive Cervid facilities in West Virginia. The disease is especially serious in that there is no live animal test for the facilities and that there is an extended incubation period of up to five years. CWD is a transmissible spongiform encephalopathy of the nervous system which is always fatal in Cervids. Although there have been no known cases of CWD in humans, the consumption of deer meat infected with the disease is considered a risk.

The recreational hunting and wildlife viewing associated with the deer herd and its economic benefits would be drastically reduced should CWD be discovered in West Virginia. Millions of dollars have been spent and dedicated to the elimination and control of CWD in states where it has occurred. Prevention of the introduction of CWD into West Virginia is the most economically prudent course of action. A recent survey of hunters in Wisconsin where the disease occurs indicated that 36% of hunters may not participate in deer hunting because of their concerns of CWD. A 36% decline in deer hunting in West Virginia would result in a loss of a minimum of \$2.6 million in license sales and a total economic loss of \$89 million to the state. In Colorado all Cervids killed in the endemic area of CWD are tested.

The primary method of spreading CWD has been through the interstate transfer of deer and elk into captive pens. Since live Cervids can not be tested, the disease could already be in West Virginia. Immediate action must be taken to mark all Cervids, inventory herds, provide higher standards for facilities, test dead Cervids, and monitor and control movements of captive Cervids to reduce the risks associated with this potential crisis in wildlife management.

This rule also addresses the problems associated with Bovine Tuberculosis in white-tailed deer.

APPENDIX B
FISCAL NOTE FOR PROPOSED RULES

Rule Title: Series 64, Miscellaneous Permits and Licenses

Type of Rule: ☒ Legislative ☐ Interpretive ☐ Procedural

Agency: Division of Natural Resources

Address: Room 812, Building 3, Capitol Complex, Charleston, West Virginia, 25305

Phone Number: 304/558-2771 Email: billieshearer@wvdnr.gov

Fiscal Note Summary

Summarize in a clear and concise manner what impact this measure
will have on costs and revenues of state government.

This rule will increase the agency cost of monitoring and sampling captive cervid facilities from approximately \$20,000 per year to approximately \$40,000 per year in man days and current expense.

Fiscal Note Detail

Show over-all effect in Item 1 and 2 and, in Item 3, give an explanation of
Breakdown by fiscal year, including long-range effect.

FISCAL YEAR			
Effect of Proposal	2005 Increase/Decrease (use "-")	2006 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	15,000.00	17,000.00	20,000.00
Personal Services	14,000.00	16,000.00	18,000.00
Current Expenses	1,000.00	1,000.00	2,000.00
Repairs & Alterations	0.00	0.00	0.00
Assets	0.00	0.00	0.00
Equipment	0.00	0.00	0.00
Other	0.00	0.00	0.00
2. Estimated Total Revenues	0.00	0.00	0.00

Rule Title:

Series 64, Miscellaneous Permits and Licenses

3. Explanation of above estimates (including long-range effect):

Please include any increase or decrease in fees in your estimated total revenues.

Increased inspections and sampling will increase agency man days from about 130 days currently to an estimated 230 days when fully implemented plus an increase in associated vehicle mileage and expenses.

MEMORANDUM

Please identify any areas of vagueness, technical defects, reasons the proposed rule would not have a fiscal impact, and/or any special issues not captured elsewhere on this form.

None

Date: 6/28/05

Signature of Agency Head or Authorized Representative

Frank J. Jago



EMERGENCY RULE QUESTIONNAIRE

DATE: 6/28/05

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency Name, Address & Phone No.) Division of Natural Resources
Room 812, Building 3, Capitol Complex
Charleston, West Virginia 25305
Telephone Number 304/558-2771

EMERGENCY RULE TITLE: Series 64, Miscellaneous Permits and Licenses

1. Date of filing 6/28/05
2. Statutory authority for promulgating emergency rule:
West Virginia Code Chapter 20-1-7(20) and 20-1-7(30)
3. Date of filing of proposed legislative rule: _____
4. Does the emergency rule adopt new language or does it amend or appeal a current legislative rule? Amends 58CSR64
5. Has the same or similar emergency rule previously been filed and expired?
No
6. State, with particularity, those facts and circumstances which make the emergency rule necessary for the **immediate** preservation of public peace, health, safety or welfare.
~~Chronic Wasting Disease has spread from the west eastward to several states and has~~
now been found in New York. This disease is a serious threat to the state's deer herd
~~and to the associated outdoor recreation. The movement of this disease is associated~~
with the movement of captive Cervids between captive Cervid facilities. Since there is
no live animal test for Chronic Wasting Disease, regulations of captive cervid facilities
must be modified to mandate higher standards of fencing, Cervid inventory, disease
testing, restricting movements, monitoring and protection of wild white-tailed deer.

7. If the emergency rule was promulgated in order to comply with a time limit established by the Code or federal statute or regulation, cite the Code provision, federal statute or regulation and time limit established therein.

Not applicable.

8. State, with particularity, those facts and circumstances which make the emergency rule necessary to prevent substantial harm to the public interest.

~~Chronic Wasting Disease presents a serious threat to the state's wildlife resources and~~
there is no live animal test currently available to diagnose this disease. The disease
~~could already be in our captive cervid facilities or could be brought into the state~~
through the illegal movement of captive Cervids. Strict monitoring and upgrading of
~~captive Cervid facilities is necessary to protect the state's wildlife and associated~~
recreational and economic resources. The rule also addresses the prevention of Bovine
Tuberculosis and other diseases.

TITLE 58
LEGISLATIVE RULE
BUREAU OF COMMERCE
DIVISION OF NATURAL RESOURCES

SERIES 64
MISCELLANEOUS PERMITS AND LICENSES

FILED

2005 JUN 28 A 10:13

OFFICE WEST VIRGINIA
SECRETARY OF STATE

§58-64-1. General.

1.1. Scope and Purpose. -- This rule establishes procedures concerning the application for and renewal of certain permits and licenses issued by the Division and the keeping of records, submission of reports and other terms and conditions associated with such permits and licenses.

1.2. Authority. -- W. Va. Code §§20-1-7(20) and 20-1-7(30).

1.3. Filing Date. -- ~~May 10, 1996.~~

1.4. Effective Date. -- ~~May 10, 1996.~~

1.5. Repeal of Former Rule. -- This rule repeals and replaces 47 CSR 48A "Miscellaneous Permits and Licenses" which was filed on July 28, 1989 and became effective on September 1, 1989.

§58-64-2. Definitions.

2.1. "Applicant" means a person of at least eighteen (18) years of age who is applying for any one of the following permits and licenses issued by the Division under the provisions of W. Va. Code 20-2 et seq.

2.1.1. 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). ~~Three~~ Four categories of this license will be issued by the Division:

2.1.1.a. Commercial game farm license. 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 Division rules governing the commercial sale of wildlife (58 CSR 63). This license does not include the acquisition or holding of foxes or raccoons trapped from the wild by a legal trapper under provisions of W. Va. Code §20-2-11.

2.1.1.b. Hound coursing/training pen game farm license. This license authorizes the holder to purchase, hold, and release into hound coursing/training pens in accordance with the provisions of this rule and under terms and conditions of the license, live foxes and raccoons obtained from the wild by a legal trapper under provisions of W. Va. Code §20-2-11 or live wildlife obtained by means specified under 58 CSR 63 Section 3.

2.1.1.c. Incorporated sportsmen club restocking game farm license. This license authorizes incorporated sportsmen clubs in West Virginia to purchase, hold, and release in accordance with the provisions of this rule and under terms and conditions of the license, live foxes and raccoons obtained from the wild by a

legal trapper under provisions of W. Va. Code §20-2-11 or other means specified under 58 CSR 63 Section 3 for the purpose of restocking.

2.1.1.d. Captive cervid license. This license authorizes cervids to be held in accordance with provisions of this rule.

2.1.2. 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 Division rules governing the commercial sale of wildlife (58 CSR 63). Two categories of this license will be issued by the Division:

2.1.2.a. A fish pond license to raise and sell fish, frogs, turtles, or other forms of aquatic life.

2.1.2.b. A fish sales license to buy and resell fish, frogs, turtles, or other forms of aquatic life.

2.1.3. A permit to keep and maintain in captivity as a pet a wild animal or wild bird that has been acquired from a commercial dealer or legally taken by the applicant during the ~~legal~~ open hunting or trapping season established under 58 CSR 45 (W. Va. Code §20-2-51).

2.1.4. A permit to keep and maintain in captivity as a roadside menagerie wild animals, wild birds, amphibians, or reptiles (W. Va. Code §20-2-52).

2.1.5. A license for the operation of a privately-owned pond or impoundment to be used as a commercial fishing preserve (W. Va. Code §20-2-53).

2.1.6. A license for the operation of a privately-owned commercial shooting preserve (W. Va. Code §20-2-54).

2.1.7. A license to catch and sell minnows or other bait fish (W. Va. Code §20-2-55).

2.1.8. A permit to any person, group of persons, club, or organization to hold or conduct a field trial, shoot-to-retrieve field trial, water race, or wild hunt (W. Va. Code §20-2-56).

2.2. "Chief" means the chief of the Law Enforcement Section of the West Virginia Division of Natural Resources.

2.3. "Division" means the West Virginia Division of Natural Resources.

2.4. "Director" means the director of the West Virginia Division of Natural Resources.

2.5. "District Office" means the office of the West Virginia Division of Natural Resources that houses Division personnel in a district.

2.6. "Section" means the Law Enforcement Section of the West Virginia Division of Natural Resources.

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

2.8. "Fiscal Year" means July 1 of one year through June 30 of the following year.

2.9. "Licensee" means a person who has been issued one of the permits and licenses listed in Section 2.1 of this rule.

2.10. "Wild Animals" means all mammals native to West Virginia, except house mice and rats.

2.11. "Wild Birds" means all birds except domestic poultry (chickens, ducks, geese, guinea fowl, peafowls, and turkeys), members of the family Psittacidae (parrots and parakeets), and other foreign cage birds such as the common canary, exotic finches, and ring doves. The term "wild birds" includes both birds that occur in a natural state in West Virginia and imported foreign game birds such as grouse, partridges, pheasants, quail, and waterfowl.

2.12. "Commercial dealer" means a licensee holding a license as defined in Section 2.21.1.a. or an out-of-state person/business licensed to sell and export wildlife.

2.13. "Legal Trapper" means a trapper possessing a valid West Virginia trapping license or equivalent (W. Va. Code 20-2-27, 20-2-28).

2.14. "Hound Coursing/Training Pen" means a permanent enclosure of no less than forty (40) acres from which there is no reasonable expectation of escape of the animals placed within.

2.15. "Incorporated Sportsmen Club" means a club, organization, or group formed for a common purpose to further the tradition of hunting, fishing, or trapping and registered with West Virginia Secretary of State for such purpose.

2.16. "Captive Cervid Facility" means a facility which is licensed to hold cervids in a permanent enclosure.

2.17. "Cervid" is any member of the deer family, both native and exotic.

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

§58-64-3. Application Submission and Review.

3.1. Except as provided in Section 3.1.1 of this rule, an applicant must submit the appropriate and completed application form furnished by the Division to the district office which serves the county in which the applicant's facility is located.

3.1.1. An applicant for a commercial shooting preserve license issued under W. Va. Code §20-2-54 must submit the appropriate and completed application form furnished by the Division to the address supplied on that form.

3.2. Application forms may be obtained at any district office or from the West Virginia Division of Natural Resources, Law Enforcement Section, Building 3, State Capitol Complex, Charleston, West Virginia 25305.

3.3. An application will not be considered to be complete unless the specified licensing fee and a copy of the applicant's West Virginia Business Registration Certificate (if applicable) are attached to the submitted application form.

3.4. Licensing fee payments must be made by personal check or money order payable to the West Virginia Division of Natural Resources.

3.5. Any inspection of an applicant's facility and wildlife will be made in accordance with the provisions of Section 6 of this rule.

3.6. A public hearing will be conducted in the appropriate county to solicit public concerns and comments related to any proposed captive cervid facility.

3.7. Upon the completion of application review, Division personnel will recommend to the chief that the permit or license sought by the applicant be either granted or denied.

~~3.6.1.~~ 3.7.1. If the chief accepts a recommendation to deny the granting of a permit or license, he must notify the applicant of the denial and the reasons therefor.

~~3.7.~~ 3.8. All permits and licenses listed in Section 2.1 of this rule will be issued by the chief, except the captive cervid license which will be issued only after approval of the Chief of Wildlife Resources Section.

~~3.8.~~ 3.9. All licensees must comply with the Temporary or Permanent Cage/Pen/Housing Requirements as set forth in Appendix A.

§58-64-4. Renewal of Issued Permits and Licenses.

4.1. Except as provided in Section 4.1.1 of this rule, all permits and licenses issued under this rule will expire on December 31 of the year of issue.

4.1.1. A commercial shooting preserve license issued under W. Va. Code §20-2-54 will expire on June 30 of the fiscal year of issue.

4.2. A licensee may seek to renew an issued permit or license by submitting an updated application to the Division no later than one month prior to the date upon which his permit or license expires.

4.2.1. A renewal application will be submitted by the licensee and processed by the Division in accordance with the provisions of Section 3 of this rule.

4.2.2. A one-month extension for an issued permit or license may be granted by Division personnel in order to facilitate the review and processing of a licensee's renewal application. No fee will be charged for an extension.

4.3. A permit or license issued under this rule may not be sold or transferred.

§58-64-5. Record Keeping and Reporting.

5.1. Records must be maintained by the licensee in accordance with the terms and conditions of the issued permit or license.

5.2. Reports must be submitted by the licensee to the chief in accordance with the terms and conditions of the issued permit or license.

5.3. Captive cervid facility reports as required in Section 7.4 must be submitted to the Chief of the Wildlife Resources Section.

§58-64-6. Inspections.

6.1. An applicant's facility and wildlife may be inspected by Division personnel, on a case by case basis, prior to the granting of the desired permit or license, except as provided in Section 6.2 of this rule.

6.2. Division personnel will inspect an applicant's facility and wildlife prior to the granting of a game farm license under W. Va. Code §20-2-47, a fish pond license under W. Va. Code §20-2-48, or a roadside menagerie permit under W. Va. Code §20-2-52 to assure compliance with all requirements mandated by statute or rule. A captive deer facility must be inspected by both Division of Natural Resources, Wildlife Resources and Law Enforcement personnel and an inspection form completed.

6.2.1. Prior to the issuance of a game farm license, Division personnel will determine that the game farm is properly enclosed, that the provisions for housing and sanitation are proper and adequate, and that the safety of the public is protected.

6.2.2. Prior to the issuance of a fish pond license, Division personnel will determine that the fish plant or pond will not interfere with the free passage of fish, that any water diverted to such plant or pond does not violate the riparian rights of other landowners, and that such plant, pond, or diversion will not interfere with the public stocking or propagation of fish frequenting such waters.

6.2.3. Prior to the issuance of a roadside menagerie permit, Division personnel will determine that the provisions for housing and care of wildlife to be kept in captivity at the menagerie are proper and adequate and that the safety of the public is protected.

6.3. 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 rule or by the terms and conditions of the licensee's permit or license.

§58-64-7. Terms and Conditions.

7.1. Game Farm License. The following terms and conditions apply for this license.

7.1.1 Wildlife enclosures must meet the minimum requirements set forth in Appendix A. In addition, all enclosures must be strong enough to both prevent escape of the captive wildlife and protect them from injury. All enclosures must be equipped with a safety barrier which adequately prevents any physical contact between the captive wildlife and visitors or customers. Cages considered unsafe by Division personnel must be repaired or reconstructed as directed within sixty (60) days.

7.1.2. Each enclosure must be provided with a shelter that is appropriate for the wildlife held captive. Shelters must contain bedding or nesting material as may be required for the comfort of the wildlife and be constructed in a manner that protects them from inclement weather.

7.1.3. Fresh drinking water must be provided daily. Swimming or wading pools must be cleaned as needed to ensure good water quality. Wildlife enclosures must be adequately drained.

7.1.4. Food must be wholesome, palatable, free from contamination, and of sufficient quantity and nutritive value to maintain all animals in good health. The diet must be prepared with consideration for age,

species, condition, size and type of animal. Wildlife must be fed at least once a day, except as dictated by hibernation, veterinary treatment, normal fasts, or other professionally-accepted practice.

7.1.5. Fecal and food waste must be removed from cages daily and stored or disposed of in a manner which prevents noxious odors or insect pests. Food and water containers must be kept clean. Hay, straw, or other bedding or nesting material must be replaced as needed. All waste must be disposed of in a legal manner.

7.1.6. All wildlife must be kept free from parasites, sickness or disease. If sick, wildlife must be given immediate professional medical attention or be humanely destroyed.

7.1.7. Any damage or injury resulting from escape of wildlife held under the authority of this license shall be the sole responsibility of the licensee.

7.1.7.a. Wildlife which escapes and poses no threat to the public shall become the property of the State.

7.1.7.b. Wildlife which escapes and poses a potential threat to the public safety may be disposed of by the Division personnel.

7.1.8. Any condition which results in wildlife escaping from its enclosure, cage, housing, leash or other constraint shall be prima-facie evidence that the escaped wildlife was held in an unsafe manner and shall be a violation of the license.

7.1.9. This license does not authorize the holder to capture wildlife from the woods or fields of this State, or to acquire live trapped raccoons and foxes from trappers in West Virginia to be used as stock at the game farm.

7.1.10. The licensee must obey Division rules governing the commercial sale of wildlife (58 CSR 63).

7.1.11. The licensee must display his license in plain view in the vicinity of his wildlife enclosure(s).

7.1.12. Accurate and current records of all wildlife acquisitions and sales or possession transfer shall be maintained by the licensee on forms provided by the Director. 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 the facility for a minimum period of ~~three~~ (3) ten (10) years. In addition the licensee shall provide a bill of sale or document to each person who purchases or receives the licensee's wildlife. The bill of sale or document shall, at a minimum, contain the following information.

7.1.12.a. The seller's name and address.

7.1.12.b. The seller's commercial game farm license number.

7.1.12.c. The date of the sale.

7.1.12.d. The purchaser's name and address

7.1.12.e. A description of the wildlife sold or transferred, including the number of each species sold or transferred.

7.1.13. 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 rule or by the terms and conditions in this license.

7.2 Hound Coursing/Training Pen Game Farm License. The following terms and conditions will apply for this license.

7.2.1. Hound coursing/training pens and wildlife enclosures must meet the minimum requirements set forth below and in Appendix A. In addition, all wildlife enclosures and hound coursing/training pens must be strong enough to both prevent escape of the captive wildlife and protect them from injury. All enclosures must be equipped with a safety barrier which adequately prevents any physical contact between the captive wildlife and visitors or customers. Cages considered unsafe by Division personnel must be repaired or reconstructed as directed within sixty (60) days.

7.2.2. Each enclosure must be provided with a shelter that is appropriate for the wildlife held captive. Shelters must contain bedding or nesting material as may be required for the comfort of the wildlife and be constructed in a manner that protects them from inclement weather.

7.2.3. Fresh drinking water must be provided daily. Swimming or wading pools must be cleaned as needed to ensure good water quality. Wildlife enclosures must be adequately drained.

7.2.4. Food must be wholesome, palatable, free from contamination, and of sufficient quantity and nutritive value to maintain all animals in good health. The diet must be prepared with consideration for age, species, condition, size and type of animal. Wildlife must be fed at least once a day, except as dictated by hibernation, veterinary treatment, normal fasts, or other professionally-accepted practice.

7.2.5. Fecal and food waste must be removed from cages daily and stored or disposed of in a manner which prevents noxious odors or insect pests. Food and water containers must be kept clean. Hay, straw, or other bedding or nesting material must be replaced as needed. All waste must be disposed of in a legal manner.

7.2.6. All wildlife must be kept free from parasites, sickness or disease. If sick, wildlife must be given immediate professional medical attention or be humanely destroyed.

7.2.7. Any damage or injury resulting from escape of wildlife held under the authority of this license shall be the sole responsibility of the licensee.

7.2.7.a. Wildlife which escapes and poses no threat to the public shall become the property of the State.

7.2.7.b. Wildlife which escapes and poses a potential threat to the public safety may be disposed of by the Division personnel.

7.2.8. Any condition which results in wildlife escaping from its enclosure, cage, housing, leash or other constraint shall be prima-facie evidence that the escaped wildlife was held in an unsafe manner and shall be a violation of the license.

7.2.9. This license does not authorize the holder to capture wildlife from the woods or fields of this State to be used as stock at the game farm or for release into hound coursing/training pens. This license is intended only to allow the licensee to acquire live foxes and raccoons from legal trappers and/or commercial dealers for the purpose of stocking hound coursing/training pens.

7.2.10. The licensee must obey Division rules governing the commercial sale of wildlife (58 CSR 63).

7.2.11. The licensee must display his license in plain view in the vicinity of his wildlife enclosure(s).

7.2.12. Under this license, hound coursing/training pens means a permanent enclosure of no less than forty (40) acres from which there is no reasonable expectation of escape of the animals placed within. In the case of foxes and raccoons, the licensee must meet the requirements of ~~paragraph 19~~ 7.2.19 below.

7.2.13. This license authorizes the holder to purchase, hold, and release into hound coursing/training pens, under terms and conditions of the license, live foxes and raccoons obtained from the wild by a legal trapper (WV Code §20-2-11) or wildlife obtained by means specified under 58 CSR 63 Section 3 for this purpose.

7.2.14. Live raccoons and foxes obtained from a legal trapper under provision of WV Code §20-2-11 must be obtained within the county in which the licensed facility is located or from the counties specified by the Director.

7.2.15. In October of each year the Director will publish a list of counties from which the holder of this license may obtain live foxes or raccoons. In order to protect public health and the welfare of native wildlife, the Director may further suspend and limit the sale and transfer of live raccoons and foxes in any county or portions thereof upon public notice.

7.2.16. Live foxes and raccoons obtained under this license for the purpose of releasing into hound coursing/training pens must be ear tagged by the licensee with a tag supplied by the Division within three (3) days of acquisition and before releasing into hound coursing/training pens.

7.2.17. A record must be kept by the licensee listing all wildlife acquisitions and dispositions. The animal ear tag number, date, county of origin, name address and telephone number of person from which the animal is acquired, and the date of release of all raccoons and foxes must be recorded. The bill of sale or document received at the time of the wildlife possession transfer must be kept as part of the record. All records must be either typed or written in plain and legible English and must be maintained for a period of three (3) years.

7.2.18. This license does not authorize the licensee to transfer possession or resell wildlife.

7.2.19. Fox hound coursing/training pens must have a minimum of one hundred (100) acres. Raccoon hound coursing/training pens must have a minimum of forty (40) acres, at least fifty percent (50%) of which is wooded.

7.2.20. Stocking rates of raccoon and fox shall not exceed one (1) animal per ten (10) acres in hound coursing/training pens.

7.2.21. A maximum of one (1) dog per fifteen (15) acres is permitted in raccoon and fox hound coursing/training pens.

7.2.22. Supplemental food and water must be supplied for wildlife released into hound coursing/training pens if these items are not adequate within the pen.

7.2.23. Artificial cover, in the form of dog proof escape pens, shall be provided if natural escape cover is not adequate.

7.2.24. Raccoons and foxes obtained from a trapper cannot be housed or held in the same facility, or housed or held in the same cage as animals obtained by other means.

7.2.25. Raccoons and foxes held under this license prior to release into a hound coursing/training pen may not be used for the training of hunting dogs or in dog field trials.

7.2.26. 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 rule or by the terms and conditions in this license.

7.3. Incorporated Sportsmen Club Restocking Game Farm License. The following terms and conditions will apply to this license.

7.3.1. Wildlife enclosures must meet the minimum requirements set forth in Appendix A. In addition, all enclosures must be strong enough to both prevent escape of the captive wildlife and protect them from injury. All enclosures must be equipped with a safety barrier which adequately prevents any physical contact between the captive wildlife and the public. Cages considered unsafe by Division personnel must be repaired or reconstructed as directed within sixty (60) days.

7.3.2. Each enclosure must be provided with a shelter that is appropriate for the wildlife held captive. Shelters must contain bedding or nesting material as may be required for the comfort of the wildlife and be constructed in a manner that protects them from inclement weather.

7.3.3. Fresh drinking water must be provided daily. Swimming or wading pools must be cleaned as needed to ensure good water quality. Wildlife enclosures must be adequately drained.

7.3.4. Food must be wholesome, palatable, free from contamination, and of sufficient quantity and nutritive value to maintain all animals in good health. The diet must be prepared with consideration for age, species, condition, size and type of animal. Wildlife must be fed at least once a day, except as dictated by hibernation, veterinary treatment, normal fasts, or other professionally-accepted practice.

7.3.5. Fecal and food waste must be removed from cages daily and stored or disposed of in a manner which prevents noxious odors or insect pests. Food and water containers must be kept clean. Hay, straw, or other bedding or nesting material must be replaced as needed. All waste must be disposed of in a legal manner.

7.3.6. All wildlife must be kept free from parasites, sickness or disease. If sick, wildlife must be given immediate professional medical attention or be humanely destroyed.

7.3.7. Any damage or injury resulting from the possession, escape or release into the wild of wildlife held under the authority of this license shall be the sole responsibility of the licensee.

7.3.7.a. Wildlife which escapes or is released into the wild and poses no threat to the public shall become the property of the State.

7.3.7.b. Wildlife which escapes or is released into the wild and poses a potential threat to the public safety may be disposed of by the Division personnel.

7.3.8. Any condition which results in wildlife escaping from its enclosure, cage, housing, leash or other constraint shall be prima-facie evidence that the escaped wildlife was held in an unsafe manner and shall be a violation of the license.

7.3.9. This license does not authorize the holder to capture wildlife from the woods or fields of this State to be used as stock at the game farm or any other use.

7.3.10. The licensee must obey Division rules governing the commercial sale of wildlife (58 CSR 63).

7.3.11. The licensee must display his license in plain view in the vicinity of his wildlife enclosure(s) and a copy on their person at the site of release of the wildlife covered under this license.

7.3.12. Under this license an incorporated sportsmen club means a club, organization, or group formed for a common purpose to further the tradition of hunting, fishing or trapping and registered with the West Virginia Secretary of State for such purpose.

7.3.13. This license authorizes incorporated sportsmens clubs in West Virginia to purchase, hold, and release under terms and conditions of the license, live foxes and raccoons obtained from the wild by a legal trapper (W. Va. Code §20-2-11) or wildlife obtained by means specified under 58 CSR 63 Section 3 for the purpose of restocking.

7.3.14. Raccoons and foxes obtained from a legal trapper under provision of W. Va. Code §20-2-11 must be obtained within the county in which the licensed facility is located or from the counties specified by the Director.

7.3.15. In October of each year the Director will publish a list of counties from which the holder of this license may obtain live foxes or raccoons. In order to protect public health and the welfare of native wildlife, the Director may further suspend and limit the sale and transfer of live raccoons and foxes in any county or portions thereof upon public notice.

7.3.16. Raccoons and foxes obtained from legal trappers under provision of W. Va. Code §20-2-11 can be held by the licensee for no more than thirty (30) days. Raccoons and foxes obtained from commercial dealers can be held by the licensee for no more than three (3) days. All raccoons and foxes obtained under this license must be held or transported under conditions specified in temporary cage/pen/housing requirements or better.

7.3.17. Live foxes and raccoons obtained under this license for the purpose of restocking must be ear tagged by the licensee with a tag supplied by the Division within three (3) days of acquisition and before releasing into the wild.

7.3.18. A record must be kept by the licensee listing all wildlife acquisitions and dispositions. The animal ear tag number, date, county of origin, name address and telephone number of person from which the animal is acquired, and the date and place of release of all raccoons and foxes must be recorded. The bill of sale or document received at the time of the wildlife possession transfer must be kept as part of the record. All records must be either typed or written in plain and legible English and must be maintained for a period of three (3) years.

7.3.19. This license does not authorize the licensee to transfer possession or resell wildlife.

7.3.20. This license is intended only to allow Incorporated Sportsmen Clubs to acquire live trapped foxes and raccoons from legal trappers and/or commercial dealers for the purpose of restocking.

7.3.21. Raccoon and foxes held under this license prior to release for restocking may not be used for the training of hunting dogs or in dog field trials.

7.3.22. Raccoons and foxes obtained from a trapper cannot be housed or held in the same facility, or housed or held in the same cage as animals obtained by other means.

7.3.23. Foxes and raccoons acquired under this license shall not be released on public lands or the lands of another without written permission of the landowner.

7.4. Captive Cervid Facility License. The following terms and conditions will apply for this license regardless of when the license was issued or whether or not the license is simply being renewed, unless otherwise specified in the rule.

7.4.1. Applications shall be made on forms provided by the Division of Natural Resources and inspections made by both the Law Enforcement Section (LES) and Wildlife Resources Section (WRS) to determine if the facility meets requirements of the license. There shall be a nonrefundable application fee of \$250.00 for each new application for a captive cervid facility license.

7.4.2. A public hearing will be conducted in the appropriate county to solicit public concerns and comments related to the proposed Captive Cervid Facility.

7.4.3. Each licensed Captive Cervid Facility shall be issued a unique and permanent identifying license number.

7.4.4. Wildlife enclosures must meet the minimum requirements set forth in this section and Appendix A, provided that all captive cervid facilities licensed before the effective date of these rules have until January 1, 2008 to comply with the fencing and pen size requirements of this rule.

7.4.5. The facility shall be constructed of such material, strength and design to contain the captive animals within the enclosure, safeguard both the captive animals and the public against injury, prevent the transmission of disease by direct or indirect contact from the captive animals to wild white-tailed deer and the public, prevent escape of captive animals and prevent wild white-tailed deer from entering the enclosure.

7.4.6. Perimeter fencing must be adequate to prevent ingress or egress of Cervids and must be designed and constructed to take into account topography and terrain features and be constructed to withstand commonly expected occurrences that would cause the fence to be breached. Such occurrences shall include, but not be limited to, high winds, ice storms, large snowfall amounts and flooding.

7.4.7. The facility shall be double-fenced with a minimum of three (3) feet and a maximum of six (6) feet of cleared ground between the perimeter fence and the outside fence. The outside fence must be a minimum of six (6) feet in height and constructed of woven wire or electrified high tensile wire to exclude nose to nose contact between captive animals and wild white-tailed deer.

7.4.8. The perimeter fence shall meet the following requirements or equivalent: Fence material must be New Zealand style deer fence or equivalent; total height of fence must be a minimum of eight (8) feet for elk and ten (10) feet for all other Cervids; a minimum of eight (8) feet of woven wire must be used on the bottom of the ten (10) feet fence; minimum 12.5 gauge high tensile woven wire with locking knots and a maximum six (6) inch spacing must be used; posts must be metal 'T'-posts, treated 4 X 4 posts, 6 inch treated round post or equivalent; corner posts must be properly braced and installed; posts must be spaced at 20 feet maximum for T-post or 30 feet maximum for rigid post; brace posts must be buried at least 4 feet in rocky soil and 6 feet in sandy soil or concrete must be used to provide equal stability; line posts must be buried to 3 feet; rigid posts must be set at lowest points of dips and on crowns or humps; trees or other structures that could threaten the fence must be removed or fencing must be constructed so as to prevent the breach of the fence from the fall of a tree or structure; gates must be of sufficient strength and construction with no gaps; gates must have functional locks; fencing must be properly attached to post; bottom strand of fence must be at ground level and reinforced; and water courses, gullies, ditches, etc. must be properly fenced to prevent escape.

7.4.9. The minimum size for captive Cervid facilities shall be 5,000 square feet for one animal. The enclosure size shall be increased by 25% for each additional animal. Stocking density must allow for ground cover during all seasons. This requirement applies to new captive cervid facilities or for existing facilities after January 1, 2008.

7.4.10. The facility shall provide appropriate shelter and bedding material for the captive animals that protects them from inclement weather.

7.4.11. Fresh drinking water shall be provided daily.

7.4.12. Captive animals shall be fed daily. Food must be wholesome, palatable, free from contamination and of sufficient quantity and nutritive value to maintain all animals in good health. No person shall feed any Cervid with any material that contains protein derived from any mammalian tissues.

7.4.13. Where necessary, fecal and food waste shall be removed from the enclosure daily and stored or disposed of in a manner that prevents noxious odors or insect pests. Food and water containers shall be kept clean. Hay, straw or other bedding material must be replaced as needed. All waste must be disposed of in a legal manner. Food, urine, fecal waste, and soils exposed to these waste materials must not be disposed where it may be exposed to free ranging white-tailed deer.

7.4.14. All cervids must be kept free from parasites, sickness or disease. If sick, cervids must be given immediate professional medical attention or be humanely destroyed. Routine sampling and diagnostics for disease and parasites may be required by the Director. An annual examination of each animal by a state licensed veterinarian shall be performed and a report submitted to the Director. All testing of captive Cervids shall be performed by an accredited veterinarian certified by the USDA to perform testing on Cervids, including CWD, TB and brucellosis testing.

7.4.15. The co-mingling of different Cervid species or Cervid species and livestock will not be permitted in the same pens without prior written approval of the Director. If different Cervid species are housed at the same facility, they must be separated into different pens that are double-fenced or otherwise prohibit contact between the different species. Food, water and waste material from different Cervid species must not be available to or exposed to other Cervids in separate pens or to free ranging white-tailed deer.

7.4.16. The facility shall not restrict the movement or trap existing free ranging deer inhabiting the land on which the facility is constructed. DNR personnel shall verify the absence of entrapped deer, and such

verification may require snow cover for the detection of deer prior to the release of any captive Cervids within the facility.

7.4.17. The captive Cervid facility shall abide by all the requirements in DNR Legislative Rule 58 CSR 63.

7.4.18. Each captive Cervid shall be marked with a unique tattoo in the ear, a metal ear tag with a unique identification number affixed to the ear, or other permanent marker approved by the Director, and a unique marker visible and identifiable from 50 yards. Except that a unique tattoo in the ear shall not be required of Cervids less than six (6) months of age.

7.4.19. An accurate and current inventory of all the animals in the captive Cervid herd will be maintained on forms provided by the DNR. These records shall indicate all wildlife acquisitions, sales, possession transfers, escapes, births, mortalities and appropriate permits. Records shall show names, addresses, dates, sales documentation, tag numbers, and origins or destinations of all transactions concerning captive Cervids.

7.4.20. A copy of the records of all acquisitions, mortalities, births, sales or possession transfers shall be forwarded to the District LES Captain within 15 days. Applications to receive or transfer captive Cervids shall be made on forms provided by the DNR. Prior approval shall be obtained from the Director for the movement of captive cervids, and shall be conditional on negative test results and herd accreditation for TB and brucellosis as defined by the USDA. All such tests must be performed by an accredited veterinarian certified by the USDA to perform such testing. Failure to obtain approval for the transfer of a Cervid prior to the transfer of such Cervid shall result in a \$1000.00 fine per animal levied against both the facility releasing the Cervid for transport and the facility receiving the Cervid and the possible suspension of the game farm license of the facility releasing the Cervid for transport and the facility receiving the Cervid.

7.4.21. Only animals coming from a captive Cervid herd within the state with an ongoing and appropriate CWD surveillance record for at least 60 months may be received by the new captive Cervid facility. If a captive Cervid facility has begun a monitoring program prior to January 1, 2005, and has continued this program for at least 36 months, the facility may submit its monitoring records to the Director and seek consideration by the Director for requests to move Cervids. The Director has the absolute right to deny any transfer of Cervids.

7.4.22. No animals or genetic material may be received by a captive Cervid facility that have originated or been housed with animals originating from any state that has a confirmed CWD or Tuberculosis (TB) positive Cervid in the last 60 months.

7.4.23. All Cervids sold or transferred from a licensed captive Cervid facility shall be tested by an accredited veterinarian for any future approved live animal test for CWD prior to movement.

7.4.24. Fawns under the age of six months may not be moved or transferred.

7.4.25. Every effort will be made to prevent escapes of animals from captive Cervid facilities. All escapes shall be reported within 24 hours to the District LES Captain. Failure to report an escaped Cervid will result in the immediate forfeiture of the captive Cervid license. Any condition which results in captive Cervids escaping shall be prima-facie evidence that the Cervids were held in an unsafe manner and shall be a violation of the license.

7.4.26. Any animal that escapes from a captive Cervid facility shall be killed by DNR personnel. Appropriate samples shall be collected from the animal by DNR personnel, and these samples shall be submitted for testing for CWD and other transmissible diseases. All costs for killing the escaped animal, collecting the samples and testing shall be the responsibility of the licensee. Any damage or injury resulting from the escape of captive Cervids held under this license shall be the sole responsibility of the licensee.

7.4.27. Under no circumstances shall captive Cervids be intentionally released into the wild.

7.4.28. The captive Cervid facility, records and animals shall be periodically inspected by an authorized representative of the Director, on a case by case basis, to assure compliance with all requirements mandated by statute, rule or terms and conditions of the license.

7.4.29. The Director shall require the licensee to submit appropriate samples for testing and enroll in federal government national disease prevention programs such as, but not limited to, tuberculosis herd accreditation status as defined by the USDA as a term and condition of the captive Cervid license.

7.4.30. Any captive Cervids that die of unknown causes and/or are slaughtered shall be reported to the District LES Captain within 24 hours. Unless otherwise instructed by the District WRS Game Biologist or WRS Deer Project Leader, the licensee shall submit the animals to a licensed veterinarian to determine cause of death or condition and report these findings to the District WRS Game Biologist.

7.4.31. Appropriate samples, as determined and directed by the DNR, from all captive Cervids over six months of age that die and/or are slaughtered must be submitted for CWD testing to a USDA approved laboratory. Testing for other transmissible diseases may also be required. All costs for this disease testing and surveillance shall be the responsibility of the licensee unless federal funds become available.

7.4.32. It shall be the licensee's responsibility to ensure that the DNR is notified in writing of the CWD test results within five (5) days of completing the test. Should any sample test positive for CWD, the licensee shall immediately notify, by the most expedient means possible, the District LES Captain, District WRS Game Biologist and WRS Deer Project Leader of the test results.

7.4.33. Should any animal test positive for CWD within the captive Cervid facility, the facility shall be immediately quarantined and the captive herd shall be immediately depopulated under guidelines established collaboratively by the DNR, USDA and West Virginia Department of Agriculture. Epidemiological investigations shall be conducted to identify any captive Cervid herds linked by animal movements and appropriate actions, possibly including quarantine and testing of linked animals, shall be taken. All costs associated with the quarantine and depopulation shall be the responsibility of the licensee unless federal funds become available. In addition, the DNR will immediately initiate active and aggressive CWD surveillance of wild white-tailed deer outside the infected captive Cervid facility. All costs associated with the surveillance of wild white-tailed deer outside the captive Cervid facility shall be the responsibility of the licensee unless federal funds become available.

7.4.34. Captive Cervid facilities shall be required to enroll their herds in the USDA-APHIS CWD herd certification program, when the program becomes effective. In addition, a herd plan shall be developed that minimally includes actions described in the USDA-APHIS final rule, or if not available the proposed rule, that apply to the positive herd, epidemiologically linked herds, and the facility.

7.4.35. Failure to comply with these rules will result in the revocation of the Captive Cervid Facility License. Revocation shall count as a lapsed license requiring a new application to be completed and requiring

that all rules and regulations applying to new captive Cervid facilities be followed to obtain a new Captive Cervid License.

~~7.4.~~ 7.5. Fish Pond License. The following terms and conditions will apply for this license.

~~7.4.1.~~ 7.5.1. The licensee must assure that his plant or pond does not interfere with the free passage of fish.

~~7.4.2.~~ 7.5.2. The licensee must assure that any water diverted to his plant or pond does not violate the riparian rights of other landowners.

~~7.4.3.~~ 7.5.3. The licensee must assure that his plant, pond, or diversion will not interfere with the public stocking or propagation of fish frequenting neighboring waters.

~~7.4.4.~~ 7.5.4. If the licensee's plant or pond is supplied by waters diverted from a natural stream, the diverted waters must be adequately screened in order to prevent the movement of fish to or from public waters.

~~7.4.5.~~ 7.5.5. The licensee must obey Division rules governing the commercial sale of wildlife (58 CSR 63).

~~7.4.6.~~ 7.5.6. The licensee must display his license in plain view in the vicinity of his fish pond(s).

~~7.5.~~ 7.6. Fish Sales License. The following terms and conditions will apply for this license.

~~7.5.1.~~ 7.6.1. The licensee must obey Division rules governing the commercial sale of wildlife (58 CSR 63).

~~7.5.2.~~ 7.6.2. The licensee must display his license in plain view at his place of business.

~~7.6.~~ 7.7. Pet Permit. The following terms and conditions will apply for this permit.

~~7.6.1.~~ 7.7.1. Cages, pens, or other enclosures housing wild pets must meet the minimum requirements set forth in Appendix A.

~~7.6.2.~~ 7.7.2. Food of sufficient quantity and nutritional value must be provided daily to maintain the wild pet in a healthy state. Fresh drinking water must be provided daily.

~~7.6.3.~~ 7.7.3. Fecal and food waste must be removed from cages daily and stored or disposed of in a manner which prevents noxious odors or insect pests. Food and water containers must be washed weekly. Hay, straw, or other bedding or nesting material must be replaced as needed. All waste must be disposed of in a legal manner.

~~7.6.4.~~ 7.7.4. Pets must be kept free from parasites, sickness, or disease. If sick, pets must be given immediate professional medical attention or be humanely destroyed.

~~7.6.5.~~ 7.7.5. The permittee shall be responsible for insuring his wild pet is maintained in a manner that insures the safety of the public as well as the safety of other wildlife.

~~7.6.6.~~ 7.7.6. Pets must not be tortured, molested, or abused in any manner.

~~7.6.7.~~ 7.7.7. Pets must not be used in the training of hunting dogs.

~~7.6.8.~~ 7.7.8. Pets must have been either lawfully taken by the applicant in this State during an open hunting or trapping season or purchased from a commercial dealer licensed by the Division under W. Va. Code §20-2-47.

~~7.6.8.a.~~ 7.7.8.a. Pets lawfully taken by the applicant in West Virginia during an open hunting or trapping season must be checked and recorded by a conservation officer.

~~7.6.8.b.~~ 7.7.8.b. If the pet was purchased, the permittee must have in his possession a bill of sale showing that the pet was legally obtained from a licensed commercial dealer.

~~7.6.9.~~ 7.7.9. This permit does not convey the right to trade, barter, sell, or offer to trade, barter, or sell any wildlife. Wildlife acquired under this permit may not be sold or bred without first obtaining a license from the Division under W. Va. Code §20-2-47.

7.7.10. Cervids can not be held under this permit.

~~7.7.~~ 7.8. Roadside Menagerie Permit. The following terms and conditions will apply for this permit.

~~7.7.1.~~ 7.8.1. Wildlife enclosures must meet the minimum requirements set forth in Appendix A. In addition, all enclosures must be strong enough to both prevent escape of the captive wildlife and protect them from injury. All enclosures must be equipped with a safety barrier which adequately prevents any physical contact between the captive wildlife and visitors or customers. Cages considered unsafe by Division personnel must be repaired or reconstructed as directed within sixty (60) days.

~~7.7.2.~~ 7.8.2. Each enclosure must be provided with a shelter that is appropriate for the wildlife held captive. Shelters must contain bedding or nesting material as may be required for the comfort of the wildlife and be constructed in a manner that protects them from inclement weather.

~~7.7.3.~~ 7.8.3. Fresh drinking water must be provided daily. Swimming or wading pools must be cleaned as needed to ensure good water quality. Wildlife enclosures must be adequately drained.

~~7.7.4.~~ 7.8.4. Food must be wholesome, palatable, free from contamination, and of sufficient quantity and nutritive value to maintain all animals in good health. The diet must be prepared with consideration for age, species, condition, size, and type of animal. Wildlife must be fed at least once a day, except as dictated by hibernation, veterinary treatment, normal fasts, or other professionally-accepted practice.

~~7.7.5.~~ 7.8.5. Fecal and food waste must be removed from cages daily and stored or disposed of in a manner which prevents noxious odors or insect pests. Food and water containers must be kept clean. Hay, straw, or other bedding or nesting material must be replaced as needed. All waste must be disposed of in a legal manner.

~~7.7.6.~~ 7.8.6. All wildlife must be kept free from parasites, sickness, or disease. If sick, wildlife must be given immediate professional medical attention or be humanely destroyed.

~~7.7.7.~~ 7.8.7. Any damage or injury resulting from escape of wildlife held under the authority of this permit shall be the sole responsibility of the permittee.

~~7.7.7.a.~~ 7.8.7.a. Wildlife which escapes and poses no threat to the public shall become the property of the State.

~~7.7.7.b.~~ 7.8.7.b. Wildlife which escapes and poses a potential threat to the public safety may be disposed of by Division personnel.

~~7.7.8.~~ 7.8.8. Any condition which results in wildlife escaping from its enclosure, cage, housing, leash, or other constraint shall be prima-facie evidence that the escaped wildlife was held in an unsafe manner and shall be a violation of the permit.

~~7.7.9.~~ 7.8.9. The permittee must place signs on wildlife enclosures as specified in the requirements outlined below. Additional signs must be conspicuously posted on all enclosures prohibiting the public from feeding or annoying the wildlife. Each enclosure must also have a sign labeled in English with the proper common name of species confined therein.

~~7.7.10.~~ 7.8.10. Except as provided in Condition 11, wildlife must not be removed from their enclosures or directly exposed to the public. Safety barriers such as walls, fences, moats, retaining rails, and other necessary devices must be in place to prevent the public from approaching near enough to the enclosures or areas to make physical contact with wildlife. All enclosures must be key-locked or padlocked.

~~7.7.11.~~ 7.8.11. Visitor contact with the following designated animals may be permitted under the conditions specified:

~~7.7.11.a.~~ 7.8.11.a. Visitor contact with buffalo, deer, or elk may be allowed until the animal is six (6) months of age.

~~7.7.11.b.~~ 7.8.11.b. Wildlife may be removed from cages for exhibition provided the exhibitor displays the wildlife in a manner that precludes any danger to the public.

~~7.7.11.c.~~ 7.8.11.c. Any damage or injury resulting from contact with any wildlife held under authority of this permit shall be the sole responsibility of the permittee.

~~7.7.12.~~ 7.8.12. All wildlife held at a menagerie must have been either lawfully taken by the applicant in this State during an open hunting or trapping season or purchased from a commercial dealer licensed by the Division under W. Va. Code §20-2-47.

~~7.7.12.a.~~ 7.8.12.a. The acquisition of wildlife shall be for the sole purpose of maintaining stock for the menagerie.

~~7.7.12.b.~~ 7.8.12.b. Wildlife lawfully taken by the applicant in West Virginia during an open hunting or trapping season must be checked and recorded by a conservation officer.

~~7.7.12.c.~~ 7.8.12.c. If wildlife was purchased, the permittee must have in his possession a bill of sale showing that the wildlife was legally obtained from a licensed commercial dealer. The bill of sale must contain the name, address, and license number of the seller, the date of the sale, the purchaser's name and address, and a description of the wildlife sold, including the number of each species sold.

~~7.7.13.~~ 7.8.13. The Division must be notified in writing within fifteen (15) days after receipt of new wildlife that had not been listed on the permittee's application.

~~7.7.14.~~ 7.8.14. The Division must be notified in writing within fifteen (15) days after disposal or death of any wildlife held at the menagerie.

~~7.7.15.~~ 7.8.15. Accurate and current records must be maintained concerning all wildlife acquisitions and disposals. All records must be either typed or written in plain an legible English and must be maintained for a minimum period of three (3) years.

~~7.7.16.~~ 7.8.16. This permit does not convey the right to trade, barter, sell, or offer to trade, barter, or sell any wildlife. Wildlife acquired under this permit may not be sold or bred without first obtaining a license from the Division under W. Va. Code §20-2-47.

~~7.7.17.~~ 7.8.17. This permit does not authorize the holder to keep mammals that are not native to West Virginia.

~~7.7.18.~~ 7.8.18. The permittee must display his permit in plain view at the entrance to the menagerie.

7.8.19. Cervids cannot be held or displayed under a menagerie permit.

~~7.8.~~ 7.9. Commercial Fishing Preserve License. The following terms and conditions will apply for this license.

~~7.8.1.~~ 7.9.1. If a commercial fishing preserve pond or impoundment is supplied by waters diverted from a natural stream, the diverted waters must be adequately screened in order to prevent the movement of fish to or from public waters. The riparian rights of other landowners must not be adversely affected as a result of such a diversion.

~~7.8.2.~~ 7.9.2. All fish to be stocked in a fishing preserve must be either obtained from a commercial dealer licensed by the Division under W. Va. Code §20-2-48, imported under a permit issued by the Division under W. Va. Code §20-2-12 or lawfully caught from the waters of this State during a legal open fishing season.

~~7.8.3.~~ 7.9.3. If fish are purchased for stocking, the licensee must have in his possession a bill of sale showing that the fish were legally obtained from a licensed commercial dealer. The bill of sale must contain the name, address, and license number of the supplier, the date of the sale, the purchaser's name and address, and a description of the fish sold, including the number and pounds sold for each species.

~~7.8.4.~~ 7.9.4. Accurate and current records pertaining to the acquisition of fish to be stocked at the fishing preserve and the removal of fish from the preserve must be maintained by the licensee. All records must be either typed or written in plain and legible English and must be maintained for a minimum period of three (3) years.

~~7.8.5.~~ 7.9.5. A bill of sale must be given to each person removing fish from the fishing preserve. Each bill of sale must contain the following information:

~~7.8.5.a.~~ 7.9.5.a. The name and license number of the preserve owner.

~~7.8.5.b.~~ 7.9.5.b. The address of the fishing preserve.

~~7.8.5.c.~~ 7.9.5.c. The number and species of fish taken.

~~7.8.5.d.~~ 7.9.5.d. The date the fish were taken.

~~7.8.5.e.~~ 7.9.5.e. The name and address of the customer.

~~7.8.6.~~ 7.9.6. The licensee must display his license in plain view at the entrance to the fishing preserve.

~~7.9.~~ 7.10. Commercial Shooting Preserve License. The following terms and conditions will apply for this license.

~~7.9.1.~~ 7.10.1. Preserve Size and Boundaries.

~~7.9.1.a.~~ 7.10.1.a. The commercial shooting preserve must contain a minimum of three hundred (300) acres in one tract of leased or owned land (including water area, if any), except that a preserve confined to the releasing of ducks only may operate with a minimum of fifty (50) contiguous acres (including water area). The shooting preserve may be no larger than three thousand (3,000) contiguous acres (including water area, if any).

~~7.9.1.b.~~ 7.10.1.b. The exterior boundaries of the shooting preserve shall be clearly defined and posted with signs erected around the extremity at intervals of one hundred fifty (150) yards or less. The signs must have the words "LICENSED SHOOTING PRESERVE" on them and must be signed by the licensee.

~~7.9.1.c.~~ 7.10.1.c. Unless operated solely for the releasing of wild birds, the shooting preserve must be enclosed by fencing to prevent the ingress of native wildlife or egress of stocked wildlife species. The fencing must be of sufficient strength and height to prevent the escape of the stocked wildlife.

~~7.9.1.d.~~ 7.10.1.d. The licensee must display his license in plain view at the entrance to the shooting preserve.

~~7.9.2.~~ 7.10.2. Preserve Wildlife.

~~7.9.2.a.~~ 7.10.2.a. Native wildlife means game animals and game birds found in a wild and natural state within the boundaries of the shooting preserve.

~~7.9.2.b.~~ 7.10.2.b. Stocked wildlife means those animals and birds that were either obtained from a licensed commercial dealer and released at the shooting preserve, imported into this State under a valid wildlife importation permit and released at the shooting preserve, or raised at the shooting preserve under a valid game farm license and released.

~~7.9.2.c.~~ 7.10.2.c. Stocked wildlife may include any of the following: game birds (except wild turkey), non-native game birds (such as chukar partridges), rabbits, or the hooved stock of the families Cervidae (deer and elk), Suidae (boar), and Bovidae (buffalo). Shooting preserves which have Cervids must also operate under Captive Cervid Facility Regulations (Section 7.4).

~~7.9.2.d.~~ 7.10.2.d. This license does not authorize the holder to capture game animals or game birds from the woods or fields of this State to be used as stock at the shooting preserve.

~~7.9.2.e.~~ 7.10.2.e. This license does not authorize the holder to breed or raise wild animals or wild birds to be used as stock at the shooting preserve. In order to raise wild animals or wild birds, the licensee must first obtain a game farm license issued by the Division under W. Va. Code §20-2-47.

~~7.9.2.f.~~ 7.10.2.f. This license does not authorize the holder to import wildlife into this State to be used as stock at the shooting preserve. In order to import wildlife, the licensee must first obtain a wildlife importation permit issued by the Division under W. Va. Code §20-2-12.

~~7.9.3.~~ 7.10.3. Hunting License Requirements.

~~7.9.3.a.~~ 7.10.3.a. A West Virginia resident must possess a valid Class A license to hunt for small game and one deer with a firearm and a Class BG stamp to hunt additional big game species, Class AB, or a Class X, Class XJ, Class A-L, Class AB-L, Class A-L-I or Class AB-L-I license while hunting on the shooting preserve unless he is exempt from licensing requirements under W. Va. Code §§20-2-27, 20-2-28, or 20-2-62.

~~7.9.3.b.~~ 7.10.3.b. A nonresident must possess a valid Class E license to hunt native wildlife or stocked wildlife on the shooting preserve and or a valid Class M J shooting preserve license to hunt stocked small game species wildlife.

~~7.9.4.~~ 7.10.4. Hunting Seasons and Bag Limits.

~~7.9.4.a.~~ 7.10.4.a. Native wildlife may be hunted only during the season set therefor and in the manner and numbers authorized by Division rules governing hunting and trapping in West Virginia (58 CSR 45). There shall be no open season for wild waterfowl.

~~7.9.4.b.~~ 7.10.4.b. The licensee may establish a liberal hunting season for any species of stocked wildlife. Such season may begin no earlier than September 1 and end no later than April 30 of the following year. There shall be no hunting or shooting on a Sunday.

~~7.9.4.c.~~ 7.10.4.c. Bag limits for each species of stocked wildlife may be set by the licensee provided that the licensee and his guests or customers may recover not more than eighty percent (80%) of the total number of each species of game bird released on the premises each year, except that a one-hundred percent (100%) recovery may be allowed on mallard, black duck, ringnecked pheasant, chukar partridge, and other non-native game species.

~~7.9.4.d.~~ 7.10.4.d. Except for the required compliance with the restriction on the maximum number of released birds that may be recovered from each preserve each year, the licensee may establish shooting limitations and restrictions on the age, sex, and number of stocked wildlife that each person may take.

~~7.9.5.~~ 7.10.5. Tagging of Harvested Game.

~~7.9.5.a.~~ 7.10.5.a. All harvested game, including native wildlife, must be tagged prior to being either consumed on the premises or removed therefrom, such tags to remain affixed until the game is actually delivered to the point of consumption.

~~7.9.5.b.~~ 7.10.5.b. The numbered tagging system approved by the Director must be used by the licensee.

~~7.9.6.~~ 7.10.6. Care of Stocked Wildlife.

~~7.9.6.a.~~ 7.10.6.a. Wildlife enclosures must meet the minimum requirements set forth below. In addition, all enclosures must be strong enough to both prevent escape of the captive wildlife and protect them from injury. All enclosures must be equipped with a safety barrier which adequately prevents any physical

contact between the captive wildlife and visitors or customers. Cages considered unsafe by Division personnel must be repaired or reconstructed as directed within sixty (60) days.

~~7.9.6.b.~~ 7.10.6.b. Each enclosure must be provided with a shelter that is appropriate for the wildlife held captive. Shelters must contain bedding or nesting material as may be required for the comfort of the wildlife and be constructed in a manner that protects them from inclement weather.

~~7.9.6.c.~~ 7.10.6.c. Fresh drinking water must be provided daily. Swimming or wading pools must be cleaned as needed to ensure good water quality. Wildlife enclosures must be adequately drained.

~~7.9.6.d.~~ 7.10.6.d. Food must be wholesome, palatable, free from contamination, and of sufficient quantity and nutritive value to maintain all animals in good health. The diet must be prepared with consideration for age, species, condition, size, and type of animal. Wildlife must be fed at least once a day, except as dictated by hibernation, veterinary treatment, normal fasts, or other professionally-accepted practice.

~~7.9.6.e.~~ 7.10.6.e. Fecal and food waste must be removed from cages daily and stored or disposed of in a manner which prevents noxious odors or insect pests. Food and water containers must be kept clean. Hay, straw, or other bedding or nesting material must be replaced as needed. All waste must be disposed of in a legal manner.

~~7.9.6.f.~~ 7.10.6.f. All wildlife must be kept free from parasites, sickness, or disease. If sick, wildlife must be given immediate professional medical attention or be humanely destroyed.

~~7.9.6.g.~~ 7.10.6.g. Any damage or injury resulting from escape of wildlife from the preserve shall be the sole responsibility of the licensee.

~~7.9.6.g.i.~~ 7.10.6.g.i. Wildlife which escapes and poses no threat to the public shall become the property of the State.

~~7.9.6.g.ii.~~ 7.10.6.g.ii. Wildlife which escapes and poses a potential threat to the public safety may be disposed of by Division personnel.

~~7.9.7.~~ 7.10.7. Record Keeping.

~~7.9.7.a.~~ 7.10.7.a. The licensee must maintain accurate and current records of all wildlife purchased for, imported to, or raised at the shooting preserve.

~~7.9.7.a.i.~~ 7.10.7.a.i. Records of wildlife purchased for the shooting preserve must include a bill of sale for all wildlife acquired.

~~7.9.7.a.ii.~~ 7.10.7.a.ii. Records of wildlife imported for the shooting preserve must include the importation permit issued by the Division, the date of importation, the number of each species that were imported, and the sex of each animal that is imported.

~~7.9.7.a.iii.~~ 7.10.7.a.iii. Records of wildlife raised at the shooting preserve must include the game farm license issued by the Division, the date of birth and the number born or hatched for each species, and the sex of each animal that is born.

~~7.9.7.b.~~ 7.10.7.b. The licensee must also maintain accurate and current records of all wildlife releases made at the shooting preserve. Records of wildlife released at the preserve must include the date of release, the number of each species released, and the sex of each animal released.

~~7.9.7.c.~~ 7.10.7.c. The licensee must also maintain a registration book listing the name, address, and hunting license numbers of each customer or guest, the date on which he hunted, the number and species of game taken, and the number of the tag affixed to each carcass.

~~7.9.7.d.~~ 7.10.7.d. All records must be either typed or written in plain and legible English and must be maintained by the licensee for a minimum period of three (3) years.

~~7.9.8.~~ 7.10.8. Shooting Preserve Reports.

~~7.9.8.a.~~ 7.10.8.a. Within ten (10) days of the close of each fiscal year (i.e., by July 10), the licensee must submit a shooting preserve report to the Chief on the form provided by the Division.

~~7.10.~~ 7.11. Catch and Sell Bait Fish License. The following terms and conditions will apply to this license.

~~7.10.1.~~ 7.11.1. The licensee must obey Division rules governing the catching and selling of bait fish (58 CSR 62).

~~7.11.~~ 7.12. Field Trial Permit.

~~7.11.1.~~ 7.12.1. The following terms and conditions will apply to all field trial permits except for a Shoot-to-Retrieve Field Trial Permit.

~~7.11.1.a.~~ 7.12.1.a. Wildlife may not be taken under this permit.

~~7.11.1.b.~~ 7.12.1.b. The permit conveys no right to trespass.

~~7.11.1.c.~~ 7.12.1.c. The permit shall be valid in no more than two (2) counties and for no more than three (3) days.

~~7.11.1.d.~~ 7.12.1.d. The permit shall not be valid in areas set aside as bear sanctuaries.

~~7.11.1.e.~~ 7.12.1.e. A field trial or a wild hunt may be held on a Sunday; a water race may be held on a Sunday.

~~7.11.1.f.~~ 7.12.1.f. No person participating in the trial, race, or hunt may have a firearm or bow in his possession.

~~7.11.1.g.~~ 7.12.1.g. Each person participating must be registered for the trial, race, or hunt. The register must include the name, address, and telephone number of each participant and must be maintained for a minimum period of one (1) year. The register must be posted during the trial, race, or hunt at the address given on the permit application for inspection by Division personnel.

7.12.2. The following terms and conditions will apply for a Shoot-to-Retrieve Field Trial.

7.12.2.a. Only stocked game birds may be pursued and taken during the trial.

7.12.2.b. The permit conveys no right to trespass.

7.12.2.c. The permit shall be valid in one county only and for no more than three (3) days.

7.12.2.d. The permit is not valid in areas set aside as bear sanctuaries.

7.12.2.e. A shoot-to-retrieve field trial may not be held on a Sunday.

7.12.2.f. Each person participating must be registered for the trial. The register must include the name, address, and telephone number of each participant and must be maintained for a minimum period of one (1) year. The register must be posted during the trial at the address given on the permit application for inspection by Division personnel.

§58-64-8. Penalties.

8.1. Penalty for Failure to Obtain a Permit or License. A person who engages in an activity for which one of the permits and licenses listed in Section 2.1 of this rule is required by statute, but fails to obtain the necessary permit or license from the Division, is subject under W. Va. Code §20-2-2 to the penalties prescribed in W. Va. Code §20-7-9.

8.2. Penalty for Permit or License Violation. A licensee who violates any term or condition of his permit or license is subject to the penalties prescribed in W. Va. Code §20-7-9.

§58-64-9. Appeals to the Director.

9.1. Any condition set forth in a permit or license may be appealed to the director for reconsideration.

9.1.1. A licensee may submit a written request to the director for an informal hearing to consider the modification of any condition of an issued permit or license. Such request must be submitted to the director within thirty (30) days of the date of permit or license issuance.

9.1.2. The condition being appealed will remain in effect until the director decides to grant the requested modification and so informs the licensee.

9.1.3. If, after considering the licensee's appeal, the director decides not to grant the requested modification, he will issue and furnish to the licensee a written decision, and the reasons therefor, concerning the denial.

APPENDIX A

PERMANENT CAGE/PEN/HOUSING REQUIREMENTS

When wildlife is kept for more than thirty (30) consecutive days at the same location, such wildlife shall be placed in enclosures meeting, at a minimum, the requirements below:

1. White-Tailed Deer

a. Cage size for one deer

- 1) 500 square foot paddock with 8'H fence

b. Cage size for each additional deer

- 1) Increase enclosure area by 25%

c. Accessories

- 1) Roofed shelter
- 2) DANGEROUS – DO NOT MOLEST signs

2. Black Bears

a. Cage size for one bear

- 1) 25'L by 12'W by 8'H

b. Cage size for pair

- 1) 30'L by 15'W by 8'H

c. Accessories

- 1) Roofed shelter
- 2) EXTREMELY DANGEROUS - DO NOT MOLEST signs

3. Elk or Buffalo

a. Cage size for one animal

- 1) 1,000 square foot paddock or corral

b. Cage size for each additional animal

- 1) Increase enclosure area by 25%

c. Accessories

- 1) Roofed shelter
 - 2) DANGEROUS - DO NOT MOLEST signs
4. Bobcats
 - a. Cage size for one bobcat
 - 1) 8'L by 4'W by 6'H
 - b. Cage size for each additional animal
 - 1) Add 2'L
 - c. Accessories
 - 1) Roofed shelter
 - 2) 4'L by 14"W by 36"h resting shelf
 - 3) At least two claw logs
 - 4) EXTREMELY DANGEROUS - DO NOT MOLEST signs
5. Foxes
 - a. Cage size for one fox
 - 1) 5'L by 30"W by 30"H
 - 2) 18" above ground level
 - 3) A wire cage bottom with openings of a size which allows droppings, but not the fox's feet, to fall through
 - 4) Cage sizes for ranch fox may conform to acceptable and reasonable industry standards
 - b. Accessories
 - 1) 2'L by 30"W by 30"H roofed shelter
 - 2) DANGEROUS - DO NOT MOLEST signs
6. Raccoons
 - a. Cage size for one raccoon
 - 1) 6'L by 5'W by 6'H
 - b. Cage size for two or three raccoons
 - 1) 8'L by 5'W by 6'H
 - c. Cage size for each additional animal
 - 1) Add 2'L
 - d. Accessories

- 1) Roofed shelter or nest box
- 2) One resting shelf per animal
- 3) At least two limbs for climbing

7. Opossum or Skunks

a. Cage size for one animal

- 1) 4'L by 4'W by 6'H

b. Cage size for pair

- 1) 6'L by 4'W by 6'H

c. Cage size for each additional animal

- 1) Add 1'L

d. Accessories

- 1) Roofed shelter or nest box
- 2) At least three limbs for climbing

8. Woodchucks

a. Cage size for one animal

- 1) 8'L by 6'W by 4'H

b. Cage size for each additional animal

- 1) Add 3'L

c. Accessories

- 1) Roofed shelter or nest box

9. River Otters, Fishers, Minks or Weasels

a. Cage size for one pair

- 1) 10'L by 6'W by 6'H
- 2) Cage size for ranch mink may conform to acceptable and reasonable industry standards

b. Cage size for each additional animal

- 1) Increase cage and pool size by 25%

c. Accessories

- 1) Dry sleeping retreat
- 2) 6'L by 4'W pool 3'D at one end
- 3) EXTREMELY DANGEROUS - DO NOT MOLEST signs

10. Beavers and Muskrats

- a. Cage size for one to three animals
 - 1) 8'L by 4'W by 5'H
- b. Cage size for each additional animal
 - 1) Add 2'L
- c. Accessories
 - 1) Roofed shelter or nest box
 - 2) 4'L by 4'W by 24"D pool
 - 3) Two or more gnawing logs

11. Squirrels and Chipmunks

- a. Cage size for one to two animals
 - 1) 3'L by 2'W by 4'H
- b. Cage size for each additional animal
 - 1) Add 6"L
- c. Accessories
 - 1) Nest box
 - 2) At least three limbs for climbing

12. Rabbits and Hares

- a. Cage size for one animal
 - 1) 6'L by 3'W by 3'H
- b. Cage size for each additional animal
 - 1) Add 1'L
- c. Accessories
 - 1) Nest box
 - 2) Gnawing log

13. Grouse, Pheasants, Quail or Doves

- a. Cage size for one to five birds
 - 1) 100 square foot enclosure with 6'H fence
 - 2) Cage sizes for the propagation and raising of game birds may conform to acceptable and reasonable industry standards
- b. Cage size for each additional bird
 - 1) Increase enclosure area by 20 square feet
- c. Accessories
 - 1) Dusting area

14. Waterfowl

- a. Cage size for two pairs or one pair with off-springs of the year
 - 1) 100 square foot area
 - 2) Water area = 25% of total area
- b. Cage size for each additional bird
 - 1) Increase cage/water area by 20%

15. Other Flying Birds

- a. Enclosures for flying birds must either be small enough to inhibit flying altogether or large enough to permit aerial maneuvering within the enclosure.

16. Reptiles

- a. Indoor diorama-type cages
 - 1) Cages must be fronted with one-quarter inch mesh hardware cloth or plate glass of at least one-quarter inch in thickness.

- 2) Cages may be built of waterproof plywood of at least one-quarter inch in thickness, concrete plastered-over wire, sheet metal, one-quarter inch mesh hardware cloth, or interlocking lumber of at least three-quarter inch in thickness.
- 3) Cages are to be tightly closed at the top and all doors are to be tight fitting. The doors of all cages must be key-locked.

b. Outdoor cages or pits

- 1) The floors of outdoor cages or pits must be of concrete or masonry construction that is at least two inches in thickness. Cage sides must be of similar construction and at least six inches in thickness, with a minimum eight of four feet above the floor of the enclosures unless completely roofed over by close-meshed wire. The corners of all open-topped pits must be designed or guarded so as to prevent the escape of reptiles by climbing. Entrance doors must be key-locked.

Enclosures for wildlife not listed above must be approved by the Chief or his authorized representative prior to its construction.

TEMPORARY CAGE/PEN/HOUSING REQUIREMENTS

When wildlife is transported or is kept for less than thirty (30) consecutive days at the same location, such wildlife must be placed in cages meeting, at a minimum, the requirements outlined below:

1. Cage requirements for each animal or bird
 - a. Cage length must be at least double the animal or bird's body length (excluding its tail).
 - b. Cage width must at least equal body length.
 - c. Cage height must be at least 1' higher than the animal or bird's head when standing.
2. Cage requirements for each additional animal or bird
 - a. Cage length must be increased by 33%.
3. Animals and birds should be transported in air-conditioned or well-ventilated vehicles that can be adjusted to weather conditions. All animals must be provided with fresh water twice and fed at least once in any twenty-four (24) hour period while in transit.

Wildlife may not be housed for a period of more than thirty (30) consecutive days at the same location in cages meeting these temporary cage requirements.

APPENDIX A

PERMANENT CAGE/PEN/HOUSING REQUIREMENTS

When wildlife is kept for more than thirty (30) consecutive days at the same location, such wildlife shall be placed in enclosures meeting, at a minimum, the requirements below:

1. White-Tailed Deer
 - a. Cage size for one deer
 - 1) 5000 square foot enclosure.
 - b. Cage size for each additional deer
 - 1) Increase enclosure area by 25%
 - c. Accessories
 - 1) Roofed shelter
 - 2) DANGEROUS - DO NOT MOLEST signs
2. Black Bears
 - a. Cage size for one bear
 - 1) 25'L by 12'W by 8'H
 - b. Cage size for pair
 - 1) 30'L by 15'W by 8'H
 - c. Accessories
 - 1) Roofed shelter
 - 2) EXTREMELY DANGEROUS - DO NOT MOLEST signs
3. Elk or Buffalo
 - a. Cage size for one animal
 - 1) 5,000 square foot enclosure.
 - b. Cage size for each additional animal
 - 1) Increase enclosure area by 25%
 - c. Accessories
 - 1) Roofed shelter
 - 2) DANGEROUS - DO NOT MOLEST signs
4. Bobcats
 - a. Cage size for one bobcat

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- 1) 8'L by 4'W by 6'H
 - b. Cage size for each additional animal
 - 1) Add 2'L
 - c. Accessories
 - 1) Roofed shelter
 - 2) 4'L by 14"W by 36"h resting shelf
 - 3) At least two claw logs
 - 4) EXTREMELY DANGEROUS - DO NOT MOLEST signs
5. Foxes
- a. Cage size for one fox
 - 1) 5'L by 30"W by 30"H
 - 2) 18" above ground level
 - 3) A wire cage bottom with openings of a size which allows droppings, but not the fox's feet, to fall through
 - 4) Cage sizes for ranch fox may conform to acceptable and reasonable industry standards.
 - b. Accessories
 - 1) 2'L by 30"W by 30"H roofed shelter
 - 2) DANGEROUS - DO NOT MOLEST signs
6. Raccoons
- a. Cage size for one raccoon
 - 1) 6'L by 5'W by 6'H
 - b. Cage size for two or three raccoons
 - 1) 8'L by 5'W by 6'H
 - c. Cage size for each additional animal
 - 1) Add 2'L
 - d. Accessories
 - 1) Roofed shelter or nest box
 - 2) One resting shelf per animal
 - 3) At least two limbs for climbing
7. Opossum or Skunks
- a. Cage size for one animal
 - 1) 4'L by 4'W by 6'H
 - b. Cage size for pair

- 1) 6'L by 4'W by 6'H
 - c. Cage size for each additional animal
 - 1) Add 1'L
 - d. Accessories
 - 1) Roofed shelter or nest box
 - 2) At least three limbs for climbing
8. Woodchucks
- a. Cage size for one animal
 - 1) 8'L by 6'W by 4'H
 - b. Cage size for each additional animal
 - 1) Add 3'L
 - c. Accessories
 - 1) Roofed shelter or nest box
9. River Otters, Fishers, Minks or Weasels
- a. Cage size for one pair
 - 1) 10'L by 6'W by 6'H
 - 2) Cage size for ranch mink may conform to acceptable and reasonable industry standards.
 - b. Cage size for each additional animal
 - 1) Increase cage and pool size by 25%
 - c. Accessories
 - 1) Dry sleeping retreat
 - 2) 6'L by 4'W pool 3'D at one end
 - 3) EXTREMELY DANGEROUS - DO NOT MOLEST signs
10. Beavers and Muskrats
- a. Cage size for one to three animals
 - 1) 8'L by 4'W by 5'H
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- 3) Two or more gnawing logs

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- a. Cage size for one to two animals
 - 1) 3'L by 2'W by 4'H
- b. Cage size for each additional animal
 - 1) Add 6"L
- c. Accessories
 - 1) Nest box
 - 2) At least three limbs for climbing

12. Rabbits and Hares

- a. Cage size for one animal
 - 1) 6'L by 3'W by 3'H
- b. Cage size for each additional animal
 - 1) Add 1'L
- c. Accessories
 - 1) Nest box
 - 2) Gnawing log

13. Grouse, Pheasants, Quail or Doves

- a. Cage size for one to five birds
 - 1) 100 square foot enclosure with 6'H fence
 - 2) Cage sizes for the propagation and raising of game birds may conform to acceptable and reasonable industry standards.
- b. Cage size for each additional bird
 - 1) Increase enclosure area by 20 square feet
- c. Accessories
 - 1) Dusting area

14. Waterfowl

- a. Cage size for two pairs or one pair with off-springs of the year
 - 1) 100 square foot area
 - 2) Water area = 25% of total area

b. Cage size for each additional bird

- 1) Increase cage/water area by 20%

15. Other Flying Birds

- a. Enclosures for flying birds must either be small enough to inhibit flying altogether or large enough to permit aerial maneuvering within the enclosure.

16. Reptiles

a. Indoor diorama-type cages

- 1) Cages must be fronted with one-quarter inch mesh hardware cloth or plate glass of at least one-quarter inch in thickness.
- 2) Cages may be built of waterproof plywood of at least one-quarter inch in thickness, concrete plastered-over wire, sheet metal, one-quarter inch mesh hardware cloth, or interlocking lumber of at least three-quarter inch in thickness.
- 3) Cages are to be tightly closed at the top and all doors are to be tight fitting. The doors of all cages must be key-locked.

b. Outdoor cages or pits

- 1) The floors of outdoor cages or pits must be of concrete or masonry construction that is at least two inches in thickness. Cage sides must be of similar construction and at least six inches in thickness, with a minimum eight of four feet above the floor of the enclosures unless completely roofed over by close-meshed wire. The corners of all open-topped pits must be designed or guarded so as to prevent the escape of reptiles by climbing. Entrance doors must be key-locked.

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 - b. Cage width must at least equal body length.
 - c. Cage height must be at least 1' higher than the animal or bird's head when standing.
2. Cage requirements for each additional animal or bird
 - a. Cage length must be increased by 33%.

3. Animals and birds should be transported in air-conditioned or well-ventilated vehicles that can be adjusted to weather conditions. All animals must be provided with fresh water twice and fed at least once in any twenty-four (24) hour period while in transit.

Wildlife may not be housed for a period of more than thirty (30) consecutive days at the same location in cages meeting these temporary cage requirements.

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OFFICE WEST VIRGINIA
SECRETARY OF STATE

July 21, 2005

Ms. Betty Ireland
Secretary of State
Suite 157-K, Bld 1
1900 Kanawha Blvd. E.
Charleston, WV 25305

Dear Ms. Ireland,

I am writing to you in reference to Title 58 Legislative Rule, Series 64 - Miscellaneous Permits and Licenses which pertains to the Department of Natural Resources proposed regulations regarding captive cervid facilities in West Virginia.

The proposed Emergency Rule is based on the premise that chronic wasting disease is an imminent threat to wild and captive deer populations in West Virginia. We, as members of the West Virginia Deer Farmers Association and managers of Dream Mountain Game Ranch understand and appreciate that fact.

I would like to make reference to specific sections of this legislation, demonstrate apparent shortcomings and then provide a counter proposal which will allow us to continue to operate our business under current Department of Natural Resources Guidelines until an aggressive monitoring program can be implemented.

- Section 7.4 indicates that all cervids will be effected by this administrative rule when implemented. Only whitetail, mule deer and elk have been known to be infected with chronic wasting disease. Exotic deer such as fallow and red deer have not been recorded to be effected by the disease.
- Section 7.4.14 requires annual examination of each captive cervid by a certified veterinarian. Dream Mountain has approximately 1160 acres fenced making this an insurmountable task.
- Section 7.4.18 requires a unique tattoo, metal tag or other permanent marker to be place on each captive cervid. Dream Mountain Game Ranch would request that this rule apply to all new deer released onto the facility property after the effective date as we currently have in excess of 450 whitetail deer on the property some of which were tagged soon after birth and some that have not been.
- 7.4.21 only cervids coming from a captive cervid herd with an ongoing and appropriate CWD surveillance record for at least 60 months may be received by the new captive cervid facility. Chronic Wasting disease was first identified in 1967 and tested for in 1969. No benchmark monitoring program has been developed or implemented by the DNR in West Virginia.
- Section 7.4.33 states all costs associated with quarantine and depopulation shall be the responsibility of the licensee unless federal funds become available. Our position is that the disease very likely originated in wild deer and therefore the costs of such activity should be shared between the licensee, the state and the federal government.

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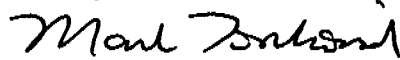
WV SECRETARY OF STATE

1. A moratorium on the transfer of captive cervids within the state of West Virginia should be implemented.
2. A 100% monitoring program on deer harvested from the Dream Mountain property as well as mortalities which occur for unknown reasons should be implemented. Dream Mountain will utilize a USDA certified veterinarian for the purpose of this testing and copies of the documents will be provided to the West Virginia DNR.
3. Dream Mountain staff will provide appropriate documentation for periodic inspection by the DNR.

In addition, Dream Mountain LLC intends to construct a residential subdivision on a small portion of the property which will provide significant tax revenue to the state and to Preston County. As evidenced by the attached Tax Impact spreadsheet. We are asking for your consideration in this matter. We would like to continue to operate our business under current guidelines until such a time as a live deer tonsil tissue test can be validated to determine CWD status. (We believe this test will be perfected in 6 months). This test will allow us to perform 100% testing on incoming cervids.

Thank you for your consideration as it relates to this important matter.

Sincerely,



Mark Tonkovich

Ranch Manager- Dream Mountain Game Ranch

DREAM MOUNTAIN GAME RANCH TAX REVENUE IMPACT

Dream Mountain Game Ranch will be developed to include 59 residential building lots for sale. For purposes of the tax revenue impact study, it is assumed that 10 of the lots will be sold to individuals that are primary residents of Preston County and the remaining 49 lots will be sold as second homes to non-residents of West Virginia. Dream Mountain plans on continuing overnight lodging at the existing lodge and at 4 additional cabins to be built in the near future. It is anticipated that there will be at least 35 retail hunts conducted during the year.

Real Estate Value:

45 lots @ \$200,000

10 lots @ \$200,000

4 lots @ \$300,000

Remaining farm acreage & lodge

Estimated cost of 4 cabins to be built

Estimated home improvements to lots

@ \$400,000 per lot - total improvements

Market Value

\$9,000,000

(second residence homeowner)

\$2,000,000

(primary residence homeowner)

\$1,200,000

(second homeowners)

\$1,000,000

\$1,200,000

\$23,600,000

Preston County Tax Impact:

County Transfer Taxes on Original Sale

55 lots @ \$6.60 per \$1,000 value

4 lots @ \$6.60 per \$1,000 value

Total Transfer Tax Revenue

72,600

7,920

80,520

One Time Impact

Annual Property Taxes:

(based on 2005 levy rates at completed home value)

49 lots - second residences

10 lots - primary residence

Remaining farm acreage, lodge & cabins

Annual Property Tax Revenue

246,887 (Class III - 1.3808 levy rate)

24,854 (Class II - .6904 levy rate)

9,113 (Class II - .6904 levy rate)

280,855

Annual Impact

Annual Hotel/Motel Taxes:

Lodge - \$400 per night, 60% occupancy

Cabins - 4 at \$250 per night, 60% occupancy

Annual Hotel/Motel Tax Revenue

2,628 (3% hotel/motel tax rate)

6,570 (3% hotel/motel tax rate)

9,198

Annual Impact

West Virginia Tax Impact:

Sales Tax - 6% Tax Rate

It is assumed that each homeowner will have an average of \$250,000 in building materials, \$40,000 in furnishings, and \$20,000 in recreational equipment. The 4 cabins should average \$200,000 in building materials and furnishings.

Sales tax on building materials

885,000

Sales tax on home furnishings

141,600

Sales tax on cabin building materials & furnishings

48,000

Sales tax on ATVs, snowmobiles, etc.

70,800

Total Sales Tax Revenue

1,145,400

One Time Impact

Lodge - \$400 per night, 60% occupancy

5,256

Cabins - 4 at \$250 per night, 60% occupancy
 Retail hunts - 35 @ \$4,000
Annual Sales Tax Revenue

13,140	
8,400	
<u>28,796</u>	Annual Impact

Income Tax

Owner tax gain of \$50,000 per lot @ 6%
 Development contractor's gain of \$50,000/lot @ 6%
 Cabin contractors at \$100,000 per cabin @ 6%
 House contractors at \$150,000 per lot @ 6%
Total Income Tax Revenue

177,000	
177,000	(using local WV contractors)
24,000	(must be WV contractors)
531,000	(must be WV contractors)
<u>908,000</u>	One Time Impact

Spin off Revenue from Lot Sales and Home & Cabin Construction:

Real estate commissions @ 6%	732,000
Legal and surveying fees @ \$1,000 per lot	69,000
Contractor labor cost @ \$150,000 per home	8,850,000
Contractor labor cost @ \$100,000 per cabin	400,000

Other Considerations:

Tourism

Since most of the lots will be used as second homes, there will be many visitors exposed to the beauty of West Virginia. Many of the visitors will return with friends to enjoy other activities in West Virginia.

Continuing Spin off Revenue

The second residence homeowners and their visiting family and friends will be buying food and supplies locally. They will also be eating out in local establishments when they are in residence.

The homeowners will be using local insurance agents, professionals, and home maintenance businesses.

It is anticipated that a large majority (approximately 49 homeowners) will be non-residents of West Virginia that would not otherwise be spending this time and money in West Virginia.

em
MIKE CLESTER
ROUTE 2, BOX 330

Albright, WV 26519
240-321-1286 cell

FILED

2005 JUL 25 P 11:38

OFFICE WEST VIRGINIA
SECRETARY OF STATE

July 21, 2005

Ms. Betty Ireland
Secretary of State
Suite 157-K Bld 1
1900 Kanawha Blvd. E
Charleston, WV 25305

Dear Secretary of State,

As I am sure you are aware, the West Virginia Department of Natural Resources has proposed an emergency rule regarding the regulation of private deer herds within the state. These regulations were drafted in order to prevent the spread of Chronic Wasting Disease or CWD to West Virginia's wild and private deer herds. These proposed regulations are much more inhibitive than the ones currently in place and will force most of the state's deer farmers to give up their herds due to economic losses.

Currently, there is much debate between the WV DNR and these private deer herd owners in regard to reasoning and science behind the proposed regulations. While CWD is obviously the primary concern to everyone involved with this issue; we here at Dream Mountain feel that some of the motivation for these new regulations arose from the ever growing mentality that hunting preserves endanger the future of hunting. Some individuals feel that fenced game preserves over promote the killing of the animal and that these hunts do not stress the overall experience of the hunt. Many conservation and sportsman's groups are opposed to hunting preserves because they feel that they portray hunting in a negative way and give the animal rights groups the negative examples of hunting they need in order to plead their cases.

As managers of an 1100 acre fenced hunting preserve and as sportsman ourselves, we want everyone involved to know that we are going to do everything possible to present the hunting pastime in a positive way. Hopefully, this fall, when we hold our antlerless youth hunts, we will be able to foster the love for the outdoors and hunting in each child's heart, so that they will spend a lifetime pursuing these activities in West Virginia's woods and wild places.

Respectfully,

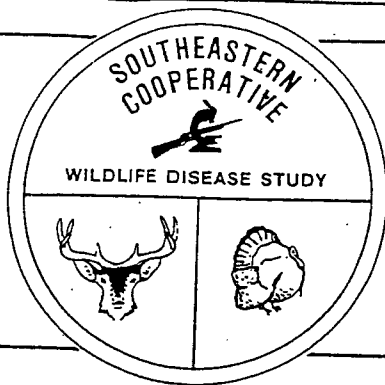
Mike Clester

Mike Clester
Dream Mountain Ranch- Wildlife Manager

RECEIVED

JUL 25 2005

WV SECRETARY OF STATE



SCWDS BRIEFS

A Quarterly Newsletter from the
SOUTHEASTERN COOPERATIVE WILDLIFE DISEASE STUDY
COLLEGE OF VETERINARY MEDICINE

Gary L. Doster, Editor

THE UNIVERSITY OF GEORGIA
ATHENS, GEORGIA 30602

Phone (706) 542-1741
FAX (706) 542-5865

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April 2005

Number 1

CWD in New York

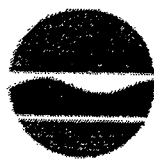
Chronic wasting disease (CWD) recently was found in captive and free-ranging white-tailed deer in New York. On March 31, 2005, the New York Department of Agriculture and Markets (DAM) and the Department of Environmental Conservation (DEC) announced that CWD infection had been detected in a six-year-old female white-tailed deer from a captive herd in Oneida County. Two days later, another captive white-tailed deer in Oneida County tested positive for CWD. The second animal was from one of six captive deer herds directly linked to the index herd. It had died of aspiration pneumonia, which sometimes occurs in later stages of CWD. All seven herds were placed under quarantine, and the New York DAM ordered the depopulation and testing of captive deer in the two affected herds. Test results revealed three more positive deer among 18 animals from the index herd; CWD was not detected in the two remaining animals from the second herd. The detection of CWD in captive white-tailed deer in New York was due to the state's surveillance and monitoring program for captive cervid herds and is the first recognition of the disease east of Illinois.

Intensive surveillance of free-ranging deer was initiated in April in the vicinity of the two positive captive deer herds in Oneida County. Wild deer also were collected in Hamilton County, New York, where one of the captive herds linked to the index herd previously had been located. To date, two positive wild deer have been found out of 317 whitetails sampled. Both of the positive

animals were collected in Oneida County, within one mile of each other.

The DEC has issued emergency regulations, effective for 90 days, and has published proposed permanent regulations designed to ensure the proper handling of deer and prevent further spread of CWD among wild animals. The emergency regulations establish a containment area; prohibit movement of certain animal parts out of this area; establish mandatory DEC check stations for any deer taken by hunters in the containment area; prohibit possession of any deer killed by a motor vehicle in the area; and, prohibit the collection, sale, possession or transport of urine of deer or elk located or killed within the containment area. On a statewide basis, the emergency regulations include provisions that will establish specific record keeping and reporting requirements for taxidermists and require measures to prevent live cervids from coming in contact with any materials, including taxidermy materials, that may contain the CWD agent. The regulations also prohibit rehabilitation of wild white-tailed deer at facilities that house live cervids and require retailers who sell animal feed to post a sign indicating that it is illegal to feed wild deer. The proposed rule will legally define a containment area, control the movement of deer parts, regulate the sale and use of materials representing known or potential causative factors in CWD transmission, and establish other requirements intended to prevent the spread of CWD in New York.

The DAM and DEC will continue public outreach efforts, including public meetings, to help educate citizens on CWD and to discuss the next steps to be taken. Current information on the CWD situation in New York,



New York State NEWS

Department of Environmental Conservation

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For Release: Friday, April 29, 2005
Contact: Michael Fraser (518) 402-8000

DEC Issues Emergency Regulations in Response to Discovery of Chronic Wasting Disease

The New York State Department of Environmental Conservation (DEC) today announced it has implemented emergency regulations regarding the handling, transport and management of deer in the State. The emergency regulations are effective immediately and represent an aggressive response to the recent discovery of chronic wasting disease (CWD) in a wild deer sampled in Oneida County.

DEC's emergency regulations are designed to ensure the proper handling of deer and prevent further spread of CWD in the wild herd. The emergency regulations were filed with the Department of State today, and are effective immediately for 90 days. In addition, DEC will begin the process of developing permanent regulations, which will appear in the State Register and include a 45-day public comment period.

The positive sample for CWD was from a wild yearling white-tailed deer, and was tested as part of DEC's intensive monitoring effort in Oneida County. The sample tissue was tested at the State's Veterinary Diagnostic Laboratory at Cornell University and confirmed at the National Veterinary Services Laboratory in Ames, Iowa. This is the first known occurrence of CWD in a wild deer in New York State.

The regulations will establish a containment area in Oneida County, where CWD has been identified. The containment area will be comprised of Oneida County municipalities, including the

cities of Rome, Sherrill, and Utica, as well as the towns of Augusta, Floyd, Marcy, Trenton, Whitestown, Verona, Westmoreland, Vernon, Kirkland, New Hartford, Vienna, Annsville, Lee, and Western. In addition, the Madison County towns of Stockbridge and Lenox and City of Oneida will also be included. Within the containment area, DEC's emergency regulations will:

- prohibit the movement of certain animal parts out of the containment area;
- establish mandatory DEC check stations for any deer taken by hunters in the containment area;
- prohibit possession of any deer killed by a motor vehicle in the containment area so DEC can acquire specimens for testing; individuals who see a sick or dead deer should call DEC at (315) 336-4809; and,
- prohibit the collection, sale, possession or transport of deer or elk urine taken from the containment area.

In addition to the requirements listed for the containment area, DEC's emergency regulations will include provisions to be followed by individuals and facilities across the State. The emergency regulations will also:

- establish specific record keeping and reporting requirements for taxidermists and require measures to prevent live cervids from coming in contact with any materials, including taxidermy materials, that may contain the infectious agent that causes CWD;
- prohibit rehabilitation of wild white-tailed deer at facilities that house live cervids;
- require retailers who sell deer feed to post a sign provided by DEC to advise buyers of the State prohibition on feeding wild deer; regulations will also prohibit the sale of deer feed that is packaged or labeled for wild white-tailed deer.

DEC implemented intensive monitoring efforts after CWD was found in two captive white-tailed deer herds in Oneida County – the first incidents of CWD in New York State. On April 8, 2005, the State Department of Agriculture and Markets (DAM) completed testing of the captive deer and found a total of five positive results for CWD in the two captive herds.

To date, DEC, along with the U.S. Department of Agriculture's Wildlife Services program, has sampled 281 deer from Oneida County, and 25 deer from the Town of Arietta, Hamilton County. Since 2002, DEC has conducted statewide sampling of wild deer for CWD. When combined with sampling efforts in Oneida and Hamilton Counties, DEC has collected more than 3,700 samples from wild white-tailed deer.

DEC will continue intensive sampling of wild deer in Oneida County through April 30, 2005. Additionally, DEC will sample all deer killed within the containment area by motor vehicles, pursuant to nuisance deer permits, and by hunters for CWD testing. Statewide sampling for CWD – which has resulted in more than 1,000 tests each year – will be increased to closely monitor the distribution and prevalence of CWD in wild deer.

DEC and DAM will continue public outreach to interested parties in Oneida County to help educate citizens on CWD and to discuss next steps to be taken. The agencies will hold a public meeting on Thursday, May 12, 2005, at 7 p.m. in the Vernon-Verona-Sherrill High School Auditorium, located on State Highway 31 in the Town of Verona. In addition, DEC and DAM will conduct additional outreach and continue to aggressively pursue inspection and enforcement across the State.

DAM continues to investigate, sample and test white-tailed deer from two captive herds directly associated with the two herds that were confirmed positive for CWD in Oneida County. Results for these sampling efforts will be announced as soon as they are available. DAM also continues to review its regulations regarding the movement, surveillance and monitoring of live cervids in New York State.

CWD is a transmissible disease that affects the brain and central nervous system of certain deer and elk. There is no evidence that CWD is linked to disease in humans or domestic livestock other than deer and elk. More information on CWD can be found at DEC's website at

www.dec.state.ny.us/website/dfwmr/wildlife/deer/currentcwd.html

05-44

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7/25/05

O

the **Charleston**
Gazette
The State Newspaper
An Independent Newspaper Founded in 1873

Potpourri

HUNTING and fishing are big factors in West Virginia. More than 350,000 hunters enter Mountain State woodlands each year, state and federal reports say. About 250,000 West Virginians fished in 2001, and 79,000 out-of-staters bought licenses. All this activity spurs sales by restaurants, gasoline stations, outdoors stores and the like, creating 5,000 jobs and adding \$503 million to the state's economy, estimates say. "The economic benefit of hunting in West Virginia is especially valuable because of the amount of revenue generated in our most rural areas," the Division of Natural Resources says on its Web site. According to a new study released last week, hunting-fishing ranks close behind gambling, which brought \$764 million in tourist money to West Virginia in 2004.

Jane Roberts, wife of President Bush's nominee for the U.S. Supreme Court, has a West Virginia link: She was a law clerk to the late U.S. Circuit Judge James M. Sprouse from the Mountain State, according to The Washington Post. It adds that she's a devout Catholic and abortion foe who's a leader of Feminists for Life.

Last week, a Washington insider told us that Bush pulled a clever ploy: appointing a Supreme Court nominee quickly to divert public attention from the snowballing scandal over White House aide Karl Rove. On Sunday, New York Times columnist Frank Rich voiced the same view, saying: "The agenda of this rushed showmanship — to change the subject in Washington

Proteas, the national flower of South Africa, which are exported for decorations around the world, are being killed by global warming, an international report says. Experts predict that the flaming red and pink blossoms will decrease 60 percent by 2050, and some varieties will die out completely.

In winter, warm, moist air in homes can form mist on the inside of windows chilled by the icy outdoors. Last week, the opposite happened at some West Virginia homes. Hot, humid outdoor air formed mist on the outside of windows chilled by indoor air conditioning.

Hurrah. It's good news that the ratio of Kanawha County adults who smoke fell from 31 percent in 2002 to 21 percent in 2003, according to federal surveys. That's real progress against America's worst preventable health menace.

Canada has joined Spain, Holland and Belgium in legalizing same-sex marriage. Those countries feel that gays are people, like everyone else, and deserve equal rights. But America's puritanical "religious right" probably thinks Canada, Spain, Holland and Belgium are bastions of wickedness.

During his July 4 speech at Morgantown, President Bush shared the platform with former Gov. Arch Moore and publicly shook hands with him. Some observers felt it was odd for the president to make a joint appearance

"Wilderness"

Do we need more?

IN LIGHT OF LATEST CHRONIC WASTING DISEASE CASE, SCHUMER TO WARN THIS COULD SLASH UPSTATE NY'S DEER POPULATION & COST HUNTING INDUSTRY MILLIONS

*Schumer Unveils Sweeping Five-Point Plan To Prevent Dangerous Public Health and
Devastating Economic Scenarios*

*Hunting Industry Means \$890 Million to New York State Annually; No National
Protocol and Lack of Sufficient Information Leaves Upstate New York and America in
Real Danger*

*Schumer To Detail Number of Deer and Hunters in Each County; Discuss Economic
Impact In Each Region of the State: Capital Region \$7 million; Central NY \$7 m;
Rochester/Finger Lakes \$20 m; Hudson Valley \$17m; North Country \$13 m; Southern
Tier \$23 m; Western NY \$20 m*

As frightening reports emerge that Chronic Wasting Disease (CWD) could be spreading in New York, Senator Charles E. Schumer will detail the possible public health and economic impact on a **conference call on Wednesday, May 11, 2005 at 12:45 PM**. Hunting is a major New York industry, and with over \$107 million dollars at risk, Schumer will call on the federal government to take critical steps in combating the looming disaster.

Chronic Wasting Disease is a fatal disease of the brain and nervous system that occurs in deer and elk. On the heels of finding two positive New York CWD deer in the wild, and five positives on two farms in Oneida County, Schumer will release **county-by-county data** detailing **how much money region stands to lose if CWD continues to spread and starts to impact New York's hunting industry**.

TIME: 12:45 PM
DATE: WEDNESDAY, May 11, 2005

#

NOTICE TO CUSTOMERS

It is illegal to feed wild white-tailed deer in New York State.

The Department of Environmental Conservation (DEC) has imposed a prohibition on the feeding of wild white-tailed deer in order to prevent the introduction or spread of Chronic Wasting Disease (*6 NYCRR Part 189*). Any feed for domestic livestock or wildlife sold on this premises is not intended for use in feeding or attracting wild white-tailed deer. Any person found feeding wild white-tailed deer will be subject to prosecution by the DEC.

Information on Chronic Wasting Disease and DEC's regulations may be obtained from the DEC website at www.dec.state.ny.us or by calling your nearest regional DEC office.





Questions And Answers on Chronic Wasting Disease



What is Chronic Wasting Disease (CWD)?

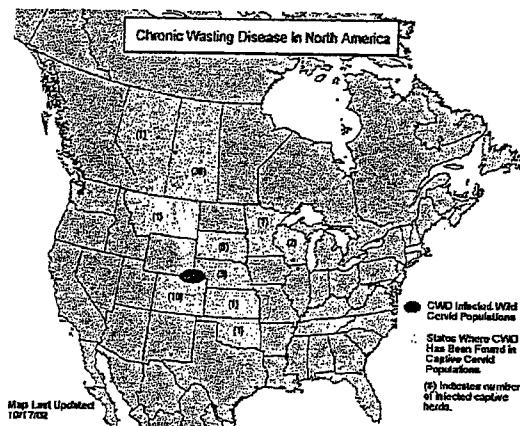
CWD is a neurological (brain and nervous system) disease found in deer and elk in certain geographical locations in North America. The disease belongs to a family of diseases known as transmissible spongiform encephalopathies (TSE) or prion diseases. The disease attacks the brains of infected deer and elk which results in the death of the animal. While CWD is similar to mad cow disease in cattle and scrapie in sheep, there is no known relationship between CWD and any other TSE of animals or people.

How is it spread?

It is not known exactly how CWD is spread. It is believed that the agent responsible for the disease may be spread both directly (animal to animal contact) and indirectly (soil or other surface to animal). It is thought that the most common mode of transmission from an infected animal is via saliva, urine, and feces.

Does Chronic Wasting Disease Exist in WV?

CWD has not been found in any animals in West Virginia. The WV DNR Wildlife Resources Section, in Cooperation with the SE Cooperative Wildlife Disease Study at the University of Georgia, College of Veterinary Medicine, has tested deer from WV for CWD every year beginning in 2000. However, to detect a disease that is present in only a few animals, many more samples need to be tested to be absolutely sure CWD is not present in free-ranging deer in WV. Therefore, the WV DNR will be testing a large number of deer for CWD throughout the state this fall and continue testing as long as the disease threat is present.



Where has it been found?

As of November 2002, CWD is known to infect free-ranging deer and elk in portions of Colorado, Illinois, Nebraska, New Mexico, South Dakota, Wisconsin, Wyoming, and Saskatchewan, Canada. In addition, CWD has been found in captive/farmed elk and white-tailed deer in Colorado, Kansas, Minnesota, Montana, Nebraska, Oklahoma, South Dakota, Wisconsin, and Alberta and Saskatchewan Canada.

New York 2005

Is it dangerous to humans?

There currently is no convincing evidence that the agent of CWD affects humans. However, public health officials recommend that human exposure to the CWD agent be avoided as they continue to research the disease.

How can you tell if a deer has CWD?

Infected animals may not show any symptoms of the disease. In some stages of the disease, however, infected animals begin to lose bodily functions and display abnormal behavior such as staggering or standing with very poor posture and lose fear of humans. Infected animals become very emaciated (thus wasting disease) and will appear in very poor body condition. Infected animals will also often stand near water and will consume large amounts of water. Drooling or excessive salivation may be apparent. Note that these symptoms may also be characteristic of diseases other than CWD.

What Hunters Can Do To Keep CWD Out of West Virginia?

- If you kill a severely emaciated (very skinny) deer or a deer that is obviously sick contact the WV DNR Wildlife Resources office nearest you.
- Don't feed or bait deer. These practices produce artificially high densities of deer, increase the likelihood of spread of any disease present in the deer herd, and may introduce foreign contaminants via the feed or bait.
- Harvest adequate numbers of antlerless deer to maintain deer populations in balance with natural food supplies. A deer population in balance with available habitat is healthier and better able to fight diseases.
- Use caution in spreading urine based lures in the environment and avoid placing deer lures on the ground or on vegetation where deer can reach them. Placing them out of reach of deer still allows air circulation to disperse the scent.
- If you plan to hunt deer or elk in a state known or suspected to harbor CWD follow that state's rules on removing animals from the area. Bring back to WV only boned out meat and thoroughly cleaned skull plates and antlers.
- If you witness live deer or elk being transported in a truck or trailer notify your local WV DNR office as soon as possible.

For More Information log on to: Chronic Wasting Disease Alliance www.cwd-info.org; Colorado www.wildlife.state.co.us; U. S. Department of Agriculture, Animal Plant Health Inspection Service www.aphis.usda.gov; Wisconsin www.dnr.state.wi.us; SE Cooperative Wildlife Disease Study www.uga.edu/scwds/briefs/0402brief.pdf; Wyoming www.gf.state.wy.us

Frank Jezioro

From: Curtis Taylor
Sent: Wednesday, June 29, 2005 4:20 PM
To: Frank Jezioro; Kelley Goes
Subject: FW: PA Game Commission News Release #55

This is a big step for PA

-----Original Message-----

From: Hoy Murphy
Sent: Wednesday, June 29, 2005 3:18 PM
To: Curtis Taylor; Paul Johansen
Subject: FW: PA Game Commission News Release #55

-----Original Message-----

From: Graybill, James [mailto:jagraybill@state.pa.us]

FYI

>
> -----Original Message-----

> From: GM, PGCNEWS
> Sent: Tuesday, June 28, 2005 3:35 PM
> To: GM, PGCNEWS
> Subject: PA Game Commission News Release #55

> The following news release is being distributed today.

> Release #55-05
> June 28, 2005
> For Information Contact:
> Jerry Feaser
> 717-705-6541
> PGCNEWS@state.pa.us

PA

> BOARD TAKES NEW STEPS TOWARD PROTECTING STATE FROM CWD

> HARRISBURG - As the agency works to collaborate with the state Agriculture Department to implement actions under the Pennsylvania CWD Response Plan, the Pennsylvania Board of Game Commissioners today gave preliminary approval to a measure granting certain emergency authorities to the executive director to prevent the spread of chronic wasting disease (CWD), if it is discovered in or near the state or poses a serious threat to the Commonwealth's deer and elk populations.

> If approved by the Board at the October meeting, the regulation would grant the executive director the authority to prohibit feeding of deer in the containment area if the spread of CWD poses a threat to human safety, farm animals, pets or wildlife in the Commonwealth, and to ban the importation of certain high-risk deer or elk parts, such as lymph nodes, brain and spinal cord.

> "While current state law and regulation prohibits the feeding of elk and bears, we recognize that many Pennsylvanians enjoy feeding other wildlife, and we do not anticipate prohibiting those feeding activities unless or until CWD poses a threat to our deer and elk," Ross said. "However, if the Board approves this measure in October, we fully expect to implement the ban on importing certain high-risk deer and elk parts as soon as possible as a means of preventing hunters from unintentionally bringing back to our state material that could potentially cause the introduction of CWD into our state."

> "As CWD is found in more and more states, most recently in New York, we have a responsibility to do everything we can to protect our wild deer and elk, as well as the captive deer and elk herds, from being exposed to this disease."

> First identified in Colorado in 1967, CWD is a transmissible spongiform encephalopathy (TSE) that affects members of the deer family (cervids), including white-tailed deer and elk. It is a progressive and always fatal disease, which scientists theorize is caused by an unknown agent capable of transforming normal brain proteins into an abnormal form. Once the abnormal form is created, it changes the shape of adjacent proteins and causes holes to form in brain tissue.

> There currently is no practical way to test live animals for CWD, no cure for animals that contract the disease and no vaccine to prevent an animal from contracting the disease. Clinical signs include poor posture, lowered head and ears, uncoordinated movement, rough-hair coat, > decreased appetite, weight loss, increased thirst, excessive drooling, and, ultimately, death.

> There is no scientific evidence of CWD being transmitted to humans or to other non-cervid livestock under normal conditions.

> Deer or elk harboring CWD may not show any signs of the disease for the first year or so, however, death normally follows within a year of when symptoms begin.

> Those states where CWD has been found in wild or captive deer or elk herds are: Colorado; Wyoming; Montana; Utah; New Mexico; New York; South Dakota; Nebraska; Kansas; Oklahoma; Minnesota; Wisconsin; and Illinois. In addition, CWD has been detected in wild or captive deer and elk in the Canadian provinces of Alberta and Saskatchewan.

> This year, as in previous years, the Game Commission collected samples from hunter-killed deer during the two-week rifle deer season and samples from hunter-killed elk for CWD testing. This marked the fourth year for testing hunter-killed elk and the third year for testing hunter-killed deer. In total, 162 elk have been tested and 6,259 deer have been tested. So far, all samples collected have been negative.

> "The test results are good news," Ross said. "Although CWD has not been found in Pennsylvania, we must continue to be vigilant in our CWD monitoring efforts. The surveillance information we are gathering is important for the early detection of CWD."

> "We already are planning to continue random testing of hunter-killed deer and elk during the 2005-2006 seasons, and we are pleased that the Pennsylvania and U.S. departments of agriculture will continue to play an important role in this disease surveillance program."

> In March, the Game Commission and other members of Pennsylvania's CWD Task Force went on increased alert when it was announced that test results showed one captive white-tailed deer on each of two different farms in Oneida County, New York, were infected with CWD.

> In April, New York officials announced that CWD was found in two wild deer in the vicinity of the infected farms. Also, their investigation into the possible source of introduction of CWD into New York was most likely one of the deer farmers who also was a taxidermist and rehabilitator. Records indicate that deer and elk heads were mounted from CWD-positive states, and rehabilitated deer were raised in the taxidermy studio, directly exposing the deer to infected waste. Rehabilitated deer were kept in captivity and others were released into the wild.

> The Game Commission, the Governor's Policy Office, state Department of Agriculture, state Department of Health, the state Department of

> Environmental Protection, the Pennsylvania Emergency Management Agency
> and the U.S. Department of Agriculture completed a CWD response plan
> for Pennsylvania nearly two years ago. The interagency task force
> focused on ways to prevent CWD from entering the Commonwealth and to
> ensure early detection should CWD enter the state, and has laid out a
> comprehensive response plan to contain and eradicate CWD should it be
> found within the state.
>
> In light of recent events in New York, and that new knowledge has been
> acquired in the past two years, the CWD response plan currently is
> being updated and will be finalized in the next few months.
>
>
> # # #

Utah to destroy wildlife that entered game farm

To limit the possibility of spreading disease, the Utah Division of Wildlife Resources (DWR) plans to slaughter two moose, one elk and 23 deer that crossed a snow bridge into a fenced game farm in the Ogden Valley. The animals came in contact with elk owned by former Denver Broncos lineman Rulon Jones. The DWR has asked the Utah Department of Agriculture and Food (UDAF), which regulates Utah elk ranches, to fine Jones for

the wildlife to be destroyed.

Although current policy dictates that all wildlife that come in contact with privately owned animals must be killed, the UDAF doesn't believe the killings are needed since nearly every elk that dies on Jones' ranch is tested for chronic wasting disease (CWD), and none have yet tested positive. But before the policy can be changed, the U.S. Department of Agriculture must standardize its testing requirements.

In the meantime, the animals in question will be killed, and Jones will have to pay \$400 for each deer, \$750 for per elk and \$1,000 for each moose. If any of the destroyed animals test positive for CWD, Jones may have to slaughter his entire captive elk herd. Jones must also make permanent improvements to his fence before his elk are allowed to return to pasture, and may be fined \$5,000 per offense for failing to maintain a secure enclosure.

—Daniel di Stefano, Bugle Intern

7/25/05

the Charleston Gazette

The State Newspaper

An Independent Newspaper Founded in 1873

Potpourri

HUNTING and fishing are big factors in West Virginia. More than 350,000 hunters enter Mountain State woodlands each year, state and federal reports say. About 250,000 West Virginians fished in 2001, and 79,000 out-of-staters bought licenses. All this activity spurs sales by restaurants, gasoline stations, outdoors stores and the like, creating 5,000 jobs and adding \$503 million to the state's economy, estimates say. "The economic benefit of hunting in West Virginia is especially valuable because of the amount of revenue generated in our most rural areas," the Division of Natural Resources says on its Web site. According to a new study released last week, hunting-fishing ranks close behind gambling, which brought \$764 million in tourist money to West Virginia in 2004.

Jane Roberts, wife of President Bush's nominee for the U.S. Supreme Court, has a West Virginia link: She was a law clerk to the late U.S. Circuit Judge James M. Sprouse from the Mountain State, according to The Washington Post. It adds that she's a devout Catholic and abortion foe who's a leader of Feminists for Life.

Last week, a Washington insider told us that Bush pulled a clever ploy: appointing a Supreme Court nominee quickly to divert public attention from the snowballing scandal over White House aide Karl Rove. On Sunday, New York Times columnist Frank Rich voiced the same view, saying: "The agenda of this rushed showmanship — to change the subject in Washington

Proteas, the national flower of South Africa, which are exported for decorations around the world, are being killed by global warming, an international report says. Experts predict that the flaming red and pink blossoms will decrease 60 percent by 2050, and some varieties will die out completely.

In winter, warm, moist air in homes can form mist on the inside of windows chilled by the icy outdoors. Last week, the opposite happened at some West Virginia homes. Hot, humid outdoor air formed mist on the outside of windows chilled by indoor air conditioning.

Hurrah. It's good news that the ratio of Kanawha County adults who smoke fell from 31 percent in 2002 to 21 percent in 2003, according to federal surveys. That's real progress against America's worst preventable health menace.

Canada has joined Spain, Holland and Belgium in legalizing same-sex marriage. Those countries feel that gays are people, like everyone else, and deserve equal rights. But America's puritanical "religious right" probably thinks Canada, Spain, Holland and Belgium are bastions of wickedness.

During his July 4 speech at Morgantown, President Bush shared the platform with former Gov. Arch Moore and publicly shook hands with him. Some observers felt it was odd for the president to shake hands with a former

NEW YORK CWD, THE INDUSTRY'S PERSPECTIVE

As we have all heard, CWD was found in New York state, Oneida County, confirmed on two different properties. The depopulating have taken place and the rate of infectivity will soon be known in these herds.

The first herd owned by John Palmer, a nine year old doe was harvested, a sample sent in and found to be positive. At the time of this writing, the trace forwards have been done and identified. This was the easy part. The hard part is determining where the CWD in New York originated.

The second herd owned by Martin Proper was a 2 year old buck who died of complications of pneumonia and in turn tested positive for CWD has it's own set of circumstances.

First - all three of the deer that made up Martin Proper's herd originated from the wilderness of New York state. Two of the animals did come from John Palmer's herd, but they were deer that were part of the Department of Environmental Conservation's rehabilitation program. Fawns taken from the wild and given to John Palmer to rehabilitate and keep alive. The two deer in question both had physical problems that made it impossible to release them back to the wild. One of the deer was blind and the other only had three feet. The two year old buck that tested positive for CWD after investigation, it was determined that this deer was picked up from the wild by Martin Proper.

The taking of deer from the wild is not condoned by the industry and is discouraged at all times for many reasons. None the less, this deer originated from the wilds of New York state as well.

John Palmer's herd started in 1994 with purchases of two deer from a producer in Ohio. Over the years, other deer were purchased as well. Also, over the past years, 20-30 fawns were brought to John to rehabilitate for New York state's Department of Environmental Conservation (DEC). These fawns were taken from the wild for various reasons and introduced to the farm deer industry by the DEC. Did these fawns taken from the wild bring CWD to John's farm?

In a statement released by NYS DEC on April 5, 2005, they plan to conduct intensive monitoring of the wild deer population surrounding both herds to determine if CWD has spread to wild herds.

The NYS DEC have already pointed blame to the farm deer industry for bringing CWD into the State of New York even though there is a history of the DEC taking deer from the wild to John for rehabilitation. The question is: were the wild deer that were brought to John's herd already infected with CWD?

Remember Martin Proper's two year old buck that was positive for CWD came from the wild and was only housed with the two deer from John Palmer for approximately two weeks. Science has also shown that

incubation for CWD is much longer than just two weeks.

To add to the story, John is also a taxidermist. With that business he has accepted animals from all over the country to mount for his clients. As I am sure you know from research released by Colorado Division of Wildlife, proved deer were able to contract CWD from being kept in pens with CWD positive deer carcass. A very similar situation that took place at John Palmer's home unbeknownst to him, carcasses kept on the same property as his deer. Is the movement of deer carcasses how CWD got to New York? Only further investigation will allow this information to come out.

Out of this case thus far, several points have come to the forefront.

The detection of CWD in New York clearly shows that the monitoring system is working. These programs are set up to identify those herds that are at risk.

This event brings the need for surveillance to a higher level. Without the state monitoring/surveillance programs, the existence of these deer would not be known. The more herds on these programs, the less the risks become.

In the face of CWD, the best defense is herd monitoring/surveillance. What better way to get participation than to recognize those that have already participated in these programs and allow for continued movement for those herds that have met the needed criteria? The event in New York has in "no way" compromised the health status of any herd that has been enrolled in a CWD monitoring/surveillance program.

CWD, conjures up many questions that go unanswered at this time. There is a continued need for those government agencies involved and the industry to work together to resolve some of the questions.

As has been seen in the past, discoveries of CWD, as well as this New York case, all too often the producer is portrayed as a villain. There is no one that wants this "disease" to be found on their property. When CWD is found, the industry expects the producers to be treated with respect and treated fairly. The finger point and intimidation tactics are "not" needed to resolve the issues involved with CWD and private ownership of deer in the United States.

Deer farmers are fathers, mothers, sons and daughters. They have served this country in the armed forces. Deer farmers come from all walks of life, doctors, lawyers, carpenters, plumbers and housekeepers. The one thing they all have in common is the passion they have for their deer. Let us work together to resolve the issues that CWD brings to the forefront across this great country of ours.

WHITETAIL DEER FARMERS OF OHIO

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Wildlife Resources Sec.
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Charleston, WV 25305

OFFICE WEST VIRGINIA
SECRETARY OF STATE

2005 AUG - 2 P 12: 10

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Dear Sir,

I am writing to respond to the proposed DNR Legislative Rule, Title 58, Series 64, Miscellaneous Permits and Licenses. As a deer farmer for more than 5 years and as current president of the Whitetail Deer Farmers of Ohio (WDFO), I have, out of necessity, kept current of the latest information available on Chronic Wasting Disease. I take exception to several statements on the opening page of this proposal and also have comments on many of the proposed rules.

On the opening page it is stated that CWD is always fatal in cervids. Since there is no live animal test, no one knows if it is always fatal or not. Also, there is the statement that "The primary method of spreading CWD has been through the interstate transfer of deer and elk into captive pens." Not only has this theory never been proven, current evidence and scientific study has now shown that it is more likely that CWD has spread through the movement of hunter killed carcasses that are found to be CWD positive, being thrown into the woods after skinning. In a study done by Beth Williams and others in Colorado, a CWD positive carcass was allowed to decay, and then was removed from the area. Eighteen months later, CWD-free deer were put into the area. Not only did some of the new animals eventually contract CWD, but it also was at a higher incidence then the test area where they tested for infection through animal-to-animal contact. Nowhere in this new rule do I see that any effort is being made to stop anyone who has hunted in the endemic area of any western state, from bringing back possibly infectious tissue and dumping it in West Virginia. In Ohio, we are aware of at least 2 cases where a hunter brought deer or elk back from out west, dumped the carcass in the woods, and was later notified by the state he hunted in that the animal had tested positive for CWD. I know that many hunters from WV hunt out west too, so this is a serious problem to consider.

According to your Rule Questionnaire, The CWD findings in New York are attributed to the movement of captive cervids between captive cervid facilities. I guess technically that is correct, however, the reality is that **all five positive deer from those facilities were traced back to the wild**, and had, in fact, been brought to the facility as orphaned fawns,

by the DNR for rehabilitation. **None of the CWD positive animals were from the captive herd. All original farm-born animals in the herd tested negative for CWD. This is indisputable proof that the CWD in New York did not come from captive deer!** It is also a fact that the owner of the first herd where CWD was found in NY is a taxidermist. Through the years, he has taken in many hunter killed deer and elk from endemic areas out west, to mount for his customers. New York officials are now of the opinion that contamination from those hunter kills is what spread the disease in their state. Mr. Jezioro has also stated as fact that a captive deer from Ohio was found positive for CWD. This, again, is absolutely untrue. As I stated earlier, there is more and more evidence that shows the captive deer industry to be little, if any, threat to any wild deer herd. The bigger threat to West Virginia's wild deer herd continues unabated, in the form of hunter killed deer and elk from endemic areas being brought into the state.

In Ohio, there is a good working relationship between the ODNR, the Ohio Dept. of Agriculture and the deer farmers association. We meet on a regular basis to review rules and to try to solve problems before they get out of hand. We work together to make reasonable rules that work for both sides. Our license fee for a commercial license is \$40 per year. We have no problems with a single fence to prevent ingress and egress of deer. The idea of requiring a roofed shelter in pens that already have natural shelter would be laughed at here, and virtually unused by the deer. Current tagging rules require a farm tag and a unique, official USDA tag. I know of no unique tag made that would be large enough to be visible from 50 yards, and if there were one, it would probably rip the ear and be lost within days of being put in.

Despite the fact that a CWD monitoring program for WV has been requested for several years, none has been put into place by either the DNR or the Dept. of Ag. To require 60 months of CWD surveillance before allowing intrastate movement is just another way to put pressure on the industry to shut down. In Ohio, since we've had no CWD positives, there are no health or CWD monitoring requirements for intrastate movement. Interstate movement into Ohio now requires three years CWD monitoring in 2005, four years in 2006 and five years monitoring after that. This has enabled the industry to keep going. In a recent survey of Ohio's 600 deer farmers, it was shown that the cervid industry has spent nearly \$7,000,000 on fencing and spends nearly \$2,000,000 annually just on feed and hay. Such an economical impact should look pretty attractive to an economically stressed state like West Virginia. One of the DNR's favorite arguments against deer farming is that there are so few farms and that they do not generate much income. With the hostile atmosphere deer farmers face from the DNR, it is no wonder there is little income generated from the state's deer farms. In Ohio, where we follow reasonable rules that allow us to conduct business, there are many deer farms that provide enough to be sole sources of income for the owners. Like it or not, the hunting preserve industry is growing by leaps and bounds. Three years ago, there were only a handful of preserves in our state. Today, there are about 25 preserves and they are reporting record numbers of clients. The industry will add hundreds of thousands of dollars to Ohio's economy. Our deer farmers have more potential customers than ever before and the industry has never been healthier.

In conclusion, what I see when looking at the overall picture of this proposed rule is an obvious prejudice against captive deer facilities and even more against the high fence hunting industry. It is very plain that the WVDNR is taking a health issue and blowing it out of proportion and using that issue to accomplish their personal goal of getting rid of an industry that they simply hate. DNR officials have continually sought to inflame the public against deer farming by misstating facts and telling half-truths about the disease. So let's look at some facts. Close confinement accelerates the spread of the disease, yet, few captive deer have been found to be positive even in endemic areas. If the disease is indeed being spread from captive to wild deer, then our pens should be full of sick deer. Let me assure you that is not the case. Wyoming has the highest incidence of CWD of any state in their wild herds. Wyoming has no deer farms, never has. They are continuing to find CWD in wild animals in New Mexico. Guess what, no deer farms there either. The last I heard, Colorado, where CWD was first found (in a DNR/University of Colorado pen) over 35 years ago, they have been issuing record numbers of hunting licenses the last few years due to the size of their wild herds. CWD doesn't seem to have devastated their wild herd. At a meeting in Washington, DC this past April, a USDA official told us that it was clear that CWD is not the highly contagious, devastating disease that they once thought it was.

Our industry has worked hard to ensure that we are not the cause of any harm to any wildlife around our pens. We now have the most tested, healthiest, Veterinarian observed animals of any industry. We do not run from reasonable testing rules, we do not ask for handouts from anyone. We only ask to be given the same treatment given to other agricultural industries. We stand ready to work with any state or federal agency to establish a level playing field for our industry. I just wish we could include West Virginia as a state with whom we could work.

Sincerely,

Steve Laughlin



INDUSTRY INFO

SEARCH

Inventing a New Industry

**Inventing a New
Industry
Deer Industry Today
Production Numbers
Export Statistics
Venison Schedule Price
Graph**

Deer are the first new animals to be domesticated for over 5,000 years. The large scale commercial farming of deer started in New Zealand, and New Zealand remains the world's largest and most advanced deer farming industry.

Deer are not native to New Zealand. The first deer were brought here from England and Scotland for sport in the mid-late 19th Century, and released mainly in the Southern Alps and foothills. The environment proved ideal and feral populations grew uncontrolled. By the middle of the 20th Century feral deer were regarded as a pest because of their impact on the environment and native forests.

The export of venison from feral deer started in the 1960s, turning a pest into an export earner. Industry pioneers saw an opportunity to build on this base and in the early 1970s started capturing live deer from the wild and farming them. A new industry was born and rapidly spread throughout New Zealand.



INDUSTRY INFO

SEARCH

Deer Industry Today

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Industry
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Graph**

There are an estimated 5,000 farms in New Zealand with deer. These farms range in size from smaller lifestyle properties to extensive stations.

Generally deer are farmed as part of a diversified livestock portfolio with other species including sheep and cattle.

There are approximately 1.7 million deer farmed in New Zealand (est. as at 30 June 2004) - half the world's farmed deer population. Split roughly 40 percent in the North Island and 60 percent in the South Island, there are an estimated 1 million female deer ('hinds' or 'cows') and 700,000 males ('stags' or 'bulls').

Young deer are known as 'fawns' or 'calves'.



Login here

More than 90 percent of the New Zealand deer industry's products are exported. Check out the current and historical export information from the industry's database. Export statistics are provided by Statistics New Zealand.

Volume of Total Deer Industry Exports

February Years	2001	2002	2003	2004	200 Provisional
Venison (Kg)	16,152,482	16,878,678	15,727,743	19,960,373	24,027,38
Velvet (Kg)	152,362	210,554	170,425	190,978	232,87
Hides (Num)	331,154	351,560	369,559	382,054	352,23
Co-Products (Kg)	1,690,909	863,371	605,756	437,804	2,152,66
Leather (Sq Metre)	109,003	119,523	106,986	74,495	176,63
Live Exports (Num)	66	0	54	244	4

Value of Total Deer Industry Exports

February Years	2001	2002	2003	2004	200 Provisional
Venison	\$194,030,560	\$238,733,441	\$169,748,204	\$162,893,656	\$194,011,84
Velvet	\$39,707,242	\$36,444,100	\$30,277,645	\$29,147,428	\$26,031,00
Hides	\$7,927,628	\$8,490,092	\$9,613,994	\$9,283,137	\$8,429,26
Co-Products	\$12,830,117	\$10,680,067	\$9,544,970	\$8,200,642	\$7,236,78
Leather	\$6,168,178	\$7,299,565	\$6,540,997	\$4,652,819	\$9,463,87
Live Exports	\$81,765	\$0	\$26,595	\$305,254	\$36,00
TOTAL	\$260,745,490	\$301,647,265	\$225,752,405	\$214,482,936	\$245,208,77

Source  **Statistic**
Te Tari Tata.



CHRONIC WASTING DISEASE IN NEW YORK

As we have all heard, CWD was found in Oneida County, New York. CWD was confirmed on 2 different farms, the first farm owned by John Palmer and the second by Martin Proper.

The first positive was a 6-year-old whitetail deer doe that was harvested for a fireman's benefit dinner. In talking to John, he said, "I picked out the fattest, healthiest looking doe I had."

Most people have been led to believe that CWD-positive deer exhibit signs of poor health, but the deer farming industry has found this to be untrue. The vast majority of those animals that have tested positive have shown little, if any signs of sickness.

The herd was depopulated only days after the first positive was found. On a Tuesday morning, sharpshooters came in and after 6 hours had put down the remaining 18 deer. Samples were collected and sent in for analysis.

Friday the results were back; 3 more positives were found for CWD. These 3 deer all came from New York State's Rehabilitation Program. John Palmer acquired these deer from New York's wild population through conservation officers.

John Palmer's herd started when he purchased a few deer from Ohio in 1994. Later, he added other deer from a New York source. Seven years ago John started rehabilitating fawns. John said he took in 1-14 fawns per year from all over New York. John had the responsibility of determining whether the fawn could be released back into the wild or had to stay forever in a pen in his privately owned herd. He also relocated some of these fawns to other producers. This is how Martin Proper came into the picture.

Martin Proper is the owner of the second positive herd. The animal that tested positive for CWD on his farm was a 4- or

5-year-old buck that died from pneumonia, another rehabilitated wild deer from New York. Martin received 2 deer from John Palmer's herd; one doe that was blind and one doe born with only 3 feet. They had bred and had produced some offspring. The aforementioned buck killed one of these does during last year's rut. He was not tested because it happened before their CWD Program was up and running. The rest of Martin's herd was put down and samples analyzed. No other positives were found.

There were 5 positives found in these 2 herds; 4 were deer taken from the wild [as rehabilitated fawns]. It is unclear to John where the very first doe originated, but he felt it could have originated from the wild as well.

Taking deer from the wild is not condoned by the cervid industry and is strongly discouraged; nonetheless, it did happen with the deer in this situation.

A statement released by the New York State Department of Environmental Conservation (DEC) on April 5, 2005 announced plans to conduct intensive monitoring of the wild deer population surrounding both farms to determine whether CWD has spread to the wild herds.

The NYS DEC has already directed blame towards the farmed deer industry for bringing CWD into New York, even though there is a clear history of the DEC taking deer out of the wild and placing them into John Palmer's herd for rehabilitation. The question should be, "Where did the wild deer of New York get CWD?"

Adding to the questions, without any answers, John is a taxidermist and has taken work from all over North America. He mentioned receiving work from the following states and Canadian province: Saskatchewan, Montana, Idaho, Illinois, Kansas, Colorado and Wyoming.

Taking deer from the wild is not condoned by the cervid industry and is strongly discouraged.



**Chronic Wasting
Disease in New
York**
(continued)

When looking at where CWD has been found in the wild, many of these locations appear on that list.

In a study released by Beth Williams and Mike Miller, they noted that [a deer] was just as likely to contract CWD from a live infected deer as it was to be housed in a pen with a dead positive carcass.

Did one or more of the many dead animals brought into John's taxidermy studio have CWD? John stated that he kept the rehabilitation fawns in the same garage where he did much of his taxidermy work. It was common practice for John to sweep up his shop and deposit the salt and chemicals along the deer fence as a weed retardant.

The industry has always said that movement of CWD-positive carcasses would move CWD much faster and farther than moving live animals. Is the New York situation just that? Is there a need to regulate movement of CWD-positive carcasses?

There are many points that come to the forefront from the situation in New York:

- The detection of CWD in New York clearly shows that the monitoring system is working. These programs are set up to identify herds at risk.
- This event highlights the need for surveillance. Without the state monitoring/surveillance programs, these positive deer would not be detected. The more herds on these programs, the lower the risk.
- In the face of CWD, the best defense is herd monitoring/surveillance. What better way to get participation than to recognize those who have already participated in these programs and allow for continued movement for their herds that have met the needed criteria? The event in New York has in no way compromised the health status of any herd that has been enrolled in a CWD monitoring/surveillance program.

- CWD conjures up many questions that remain unanswered. There is a continued need for the government agencies involved and the industry to work together to resolve some of those questions.
- As previously seen in discoveries of CWD, including this New York case, all too often the producer is portrayed as a villain. There is no one who wants this "disease" to be found on their property. When CWD is found, the industry expects the producers to be treated fairly and with respect. The finger-pointing and intimidation tactics are not needed to resolve the issues involved with CWD and private ownership of deer in the United States.

Deer farmers are fathers, mothers, sons, and daughters. They have served this country in the armed forces. Deer farmers come from all walks of life; doctors, lawyers, carpenters, plumbers, and housekeepers.

The one thing they all have in common is the passion they have for their deer. Let us work together to resolve the issues that CWD brings to the forefront across this great country of ours.

Gary Nelson is the President and acting director of the NADeFA (North America Deer Farmer's Association) and personally interviewed the owner of the deer that was found to have CWD in NY.





FIGHTING CHRONIC WASTING DISEASE LIES

We have heard that a project leader on CWD for the US National Wildlife Service in Madison Wisconsin has made a statement in a Vermont Paper that there is irrefutable evidence that the captive industry has moved CWD across the landscape. As a result, he is supposedly meeting with officials out east to set up regulations. Obviously he would like to see deer farms shut down.

There are some things he is not telling you about that movement. Apparently, man moved the disease across state lines, in hunter-harvested carcasses. This is the first documented case that demonstrates that infected hunter harvested carcasses moved across state lines have actually infected wild deer herds. State Wildlife Biologists, like Michigan's, have gone on record in presentations to legislative committees and wildlife commissions that there is no risk, or if any risk it is negligible, that CWD can be spread through hunter harvest carcasses.

This documented case has very broad implications that the industry should be concerned about.

This is an opportunity for the industry to provide ANSWERS to legislators concerning this issue. It is time NOW to change state law for single agency authority for the regulation of your state deer farming industry to the agency authorized to deal with animal health issues – your state department of agriculture.

The issue has priority and should get the attention of everyone. Instead of blaming everyone else for inappropriately blaming the industry, the process of changing to the Department of Agriculture provides an opportunity to tell our story – that we have been a part of the hunter heritage since T. Roosevelt whose administration supported deer and elk farming, to explain our businesses, preserve family farms and open spaces, that we get productive value from

marginal land, that we have not spread CWD – wildlife agencies have – that CWD is NOT diminishing wild herds, that CWD does not hurt humans, that we do not want sick deer in or NEAR our operations because it diminishes our investment AND erodes public confidence in the industry as well as hunting. The list can go on and on.

We need to get to those organizations that will listen, educate them and help them understand the responsibilities they have when they speak publicly about CWD.

You cannot waste time on organizations that have inflamed the issue of CWD in your state. They will be busy trying to regain the lost credibility they are suffering due to overstating the negative implications of CWD in the public (scaring hunters) and with the legislators and agency people. They have “boxed in” the wildlife agency and the legislators with their leadership on the issue. Some states have really overreacted to CWD while others have kept their head about it.

Many of those organizations were calling for ZERO tolerance for interstate deer transportation and were able to get state wildlife agencies and legislators to react with laws and regulations (importation bans). Well, what are they going to say now? No movement of hunter harvested carcasses? **THE INDUSTRY SHOULD NOT SUPPORT THAT CONCEPT!**

We need to carefully consider the long-term effects of any actions we take or support. In the case of restricting carcasses, trophies or other animal parts, the implications to conservation and hunting are enormous and can affect conservation around the world. We must put CWD and other diseases of wildlife into proper and clear perspective. Wild cervidae populations are NOT diminishing as a result of CWD or any other disease brought in from carcasses (that we know of).

Some states have really overreacted to CWD, while others have kept their heads about it.



Fighting CWD Lies (continued)

Until there is evidence of harm to the environment, we should not react. If we do react because of public fear (generated by anti-hunter, anti-meat activists and supported by industry enemies), we are opening the floodgates to all types of anti-industry, anti-agriculture, anti-hunting propaganda seeking to further constrict industry and hunting.

This will hurt hunting and wild population management, thus increasing the likelihood of disease that could affect those populations. Plus, public opinion needs to remain high towards deer and elk to maintain a flow of dollars to the farmers and operators.

More importantly, international conservation programs that have used hunting to manage wild populations will be at risk – an inability to bring home the trophy may stop African and Asian hunting safaris. Also, those successful programs that encourage local conservation of animals by allowing the European hunter to expend fees to come there to hunt may be at risk and further encourage local unregulated hunting.

If there are no fees coming from the hunters, then the locals may take it upon themselves to hunt the animals in spite of regulations (because there will be less money to support real enforcement). We must continue to be responsible in spite of the lies, manipulations, and inflammatory statements made by special interest groups that have not thought through the animal health issues like we have.

You will be challenged about the NY issue. Here are the facts:

- The deer farmer in NY has been rehabilitating 7-15 deer per year under the state's Wildlife Agency regulations for the last 10 or so years. Some of these have been kept or sold and some have been released into the wild. There are no records of where they came from or where they were released, and they were not tagged.

- He also bought deer from a farm in Ohio 7 years ago but that farmer died and the deer were either dispersed or released.
- The 3 positive deer were rehabilitated deer that he kept in his taxidermy studio when they were fawns so they were exposed to all sorts of material from all over the country. Actually the origin of one of the 3 is unknown. In addition he would sweep the floor every day and spread the sweepings around the deer pens for weed suppression.
- He also gave some deer to the second farm however the only positive deer in that herd was one taken from the wild! This is the first documented case of CWD transmission across state lines via carcasses. He did everything wrong simply through ignorance.

We may have to address gut piles left in the woods during hunting seasons. We may find that attempting to depopulate actually increases the spread of CWD if we leave soft tasty infected parts in the woods.

When the US National Wildlife Service representative from Wisconsin makes the statement there is irrefutable evidence that the captive industry has moved CWD across the landscape, he is wrong! Movement of hunter-harvested carcasses carried the disease from the area surrounding the wildlife research center where spread of the disease began.

It is obvious that because of the implications surrounding the problem of hunter harvested carcasses causing CWD in the wild, he is looking for a scapegoat – and not the truth. Maybe he is recognizing that CWD is not so bad, if he does not care about telling the truth? The industry must be organized and informed and cannot let this misstatement gather steam and become the message that will soon turn into policy and then laws and regulations.

continued page 11



DRUG-FREE ANTLER REMOVAL

Velvet antler from elk and deer is a popular nutraceutical recognized worldwide for healing, arthritis relief and other health benefits. Antler can now be harvested drug-free and humanely with a sleek new device manufactured in the United States.

The genius of the velvet antler bander is that it uses the firm pressure of a taut rubber band to create a natural anesthetic. Once the animal is restrained, the instrument is used to loop a band tightly around the base of each pedicle, dulling any sensation, usually within four minutes. The antlers, which are normally shed in the wild and regrow naturally every year, can then be safely and painlessly removed.

An international team of experts spent the last three years designing and field-testing the product.

"It's on the market for the first time ever and allows us to harvest elk and deer velvet antler humanely without the use of chemicals that could potentially be left in the velvet," says Mike Callicrate, owner of No-Bull Enterprises, St. Francis, Kansas. His business holds a worldwide patent on the invention.

The product offers many positive

benefits, says Dr. Terry Church, veterinarian and manager of the Canadian Rocky Mountain Ranch in Calgary. Dr. Church was the project co-ordinator charged with evaluating the compression technique.

"When the industry started out, and people did not have good handling facilities, often the animals were restrained using immobilizing drugs," he says. "The downside is that the blood supply to the antlers could contain these chemicals prior to harvest." Locally injected deadening agents such as Lidocaine could also potentially leave traces.

"What we wanted was a drug-free, humane and painless method of removing the antler," he explains. "The compression analgesic approach is an alternative to fulfill those criteria and enhance food safety, while at the same time improving animal welfare. It is a very farmer-friendly approach. The device takes very little training to use, and provides the anesthetic and tourniquet all in one step."

On this ranch, Dr. Church, who raises 450 elk and 120 reindeer, uses the compression method to remove all antlers. This allows his company to market its velvet antler capsules as all-natural and drug-free.

In clinical studies, velvet antler has been shown to relieve the symptoms of arthritis, improve athletic performance, speed up healing and increase testosterone levels. Active substances gleaned from the antlers also contribute to energy enhancement, strong immunity and anti-aging effects. These unique properties are attributed to the exceptionally rapid nerve and blood vessel development that occurs in growing antlers. More recently, velvet antler has been shown to alleviate symptoms of arthritis and senility in dogs.

For more information on the Velvet Antler Bander, call No-Bull Enterprises at 1-800-858-5974 or visit their website at www.nobull.net.

The genius of the velvet antler bander is that it uses the firm pressure of a taut rubber band to create a natural anesthetic.

Fighting CWD Lies (continued)

Please, take this opportunity and organize your state association, inform them about being speaking responsibly about CWD and explore the possibility of making legislative changes. Again, I believe Michigan's law and regulations provide a model for the state deer and elk organization to begin a discussion on what is appropriate for your state.

By Daniel Marsh, a lawyer and Executive Director of the Michigan Deer and Elk Farmers Association.
Phone: 810-984-5114, E-mail: danielpmarsh@comcast.net





July 26, 2005

West Virginia Deer Farmers Assoc., Inc.
P.O. Box 55
Fraziers Bottom, WV 25082

Curtis Taylor, DNR
Wildlife Resources Sec.
Capitol Complex, Bld. 3
Room 812
Charleston, WV 25305

Dear Sir:

The Department of Natural Resources (DNR) Proposed Rule Title 58 Series 64 will have a devastating effect on the Cervidae industry in West Virginia. The rules are not based on good scientific evidence, would be cost prohibitive, and physically impossible to comply with 100% of the time. As stated in paragraph 7.4.35 "Failure to comply with these rules will result in the revocation of the captive cervid facility license." It will be impossible to comply with these rules; hence, eventually there will be no Cervidae Industry in West Virginia. West Virginia Deer Farmers Association realizes our industry needs rules and regulations for the health and safety of both the animals involved and the public. These rules and regulations, however, need to be based on scientific evidence and not media hype. Deer farming has great potential in West Virginia and has been shown in other states and other countries that is a very viable industry. It is a way to help diversify the farm, make use of otherwise none-productive land in West Virginia, and is a perfect fit for West Virginia. As we know-deer tend to thrive in our state! Markets include venison from elk, red deer and fallow deer, velvet from the antlers of elk and red deer, antler art, breeding stock, hunting preserves, tourism with menageries, sale of deer attractants for hunting etc. Ninety percent of United States venison is imported from countries like New Zealand. Why shouldn't West Virginians compete for these healthy, high value meats from non-whitetail species farmed in West Virginia? Velvet has been shown to be high in chondroitin which has known anti-arthritis properties. It has been approved for use in pets and studies are being done on humans in hopes of obtaining FDA approval. It is also highly sought after in Asian countries for medicinal purposes. Velvet can bring up to \$125.00 per pound and a mature elk can produce up to 12-14 pounds of velvet a year. Antler art is very popular and is very expensive. It is sold at

places like Tamarack and on E-bay. Other products include leather goods such as gloves, knife handles from antlers etc. While the popularity of hunting free ranging deer has declined in many areas of the country, hunting preserves are becoming much more popular. With limited time people have these days they are willing to spend 10 to 20 thousand dollars for a two day hunt where they can harvest the buck of a lifetime. If managed appropriately on large tracts of land, they are not "canned hunts." These deer are raised wild in a natural environment, they are fed highly nutritional deer feed, and are allowed to grow to maturity unlike their counterparts in the wild.

This is an international industry with seventeen countries in Europe having deer farms. Europe has approximately 20,000 farms, Germany has approximately 5,000 farms, and Australia has approximately 1,200 farms to name a few. In New Zealand over two million deer are farmed every year. Closer to home: the following are statistics for Ohio and Pennsylvania.

Estimated number of deer farms in Ohio is 600:

Projected totals for Ohio's 600 deer farms:

- Number of deer... 15,687
- Acreage fenced... 6416
- Fencing costs... \$6,942,250
- Feed costs annually... \$1,882,440

Average per Farm:

- Length of time deer farming... 8.8 years
- Number of deer... 27
- Acres fenced... 11
- Number of pens... 4.3
- Fencing cost... \$12,714
- Cost of testing per year... \$1915
- Feed cost... \$3240

Estimated number of deer farms in Pennsylvania is 900:

In the state of Pennsylvania:

- Deer Farmers own... 36,740 deer
- Estimated market value of these deer... \$59,369,600
- Acres farmed for deer... 35,800
- Fair market value of these acres... \$365,319,116
- Average value per fenced acre... \$9003
- Value of fencing installed... \$22,590,024
- Feed costs annually... \$15,287,520
- Number of deer sold... 5760 (many of the surveys said few or no deer were sold as they are just getting started)
- Market value of deer sold... 10,630,600

- 1825 people work in the deer industry
- 250804 people visited deer farms

Wisconsin has approximately 800 deer farmers, New York 400 deer farmers, and the list goes on. Compare those facts and figures to only 54 deer farmers in West Virginia.

Chronic wasting disease (CWD) is known to affect whitetail deer, mule deer, and elk in the "cervid" family. It was first recognized as a clinical syndrome of unknown cause among mule deer in 1967 at the Colorado Division of Wildlife's research facilities in Fort Collins Colorado. (Williams and Young 1980) The disease was first recognized in the wild in 1981, when it was diagnosed in a free-ranging elk in Colorado. It was first detected in a farmed elk in the United States in 1996. Currently, it has been found in wild cervids in nine states and in farmed cervids in nine states.

Clinical signs of CWD include listlessness, lowering of the head, blank facial expression, salivation, increased drinking and urination, and weight loss. It is believed CWD is caused by a "prion" which is an infectious protein. A prion is not a bacteria or a protein. It falls under a class of diseases called Transmissible Spongiform Encephalopathies (TSE) which include diseases such as Bovine Spongiform Encephalopathy (BSE) also known as mad cow disease, Scrapies in sheep, Creutzfeldt - Jakob disease, Kuru, and Gerstruan-Straussler-Scheinker syndrome in humans. CWD is believed to be spread by "direct" contact between animals, and from "indirect" contact via saliva, feces and urine in the ground. It is also believed to spread "indirectly" when deer eat vegetation adjacent to decomposed carcass remains. It is also believed to have crossed the species barrier from scrapies in sheep to infect mule deer and possibly even occur spontaneously through mutation.

The West Virginia Department of Natural Resources filed an amendment to an existing rule Title 58, Series 64 on June 28, 2005 pertaining to procedures concerning the application and renewal of permits and licenses for the cervidae industry in West Virginia.

I would like to clarify several points made by the WV DNR in their cover letter. First, with regards to the statement CWD was discovered "in a captive cervid pen in New York. This is a very misleading statement as it implies that the deer farm was the original source of CWD. Let me expound on the facts. There were a total of five deer that tested positive for CWD from the captive herds. Four of the five deer were from New York were traced back to New York's wild deer population and were obtained through conservation officers via the New York States Rehabilitation Program. It is very possible these deer brought CWD with them from the wilds as CWD had also been discovered in wild deer 8 miles from the captive facility. It is not clear if the fifth deer was a rehabilitated wild deer or not. The program allows orphaned wild fawns to be adopted and raised by licensed deer farmers. The rehabilitation of wild fawns is not condoned by the cervid industry. The deer industry has moved well beyond what these wild fawns can offer genetically. Today, the industry demands the ability to trace lineage and pedigree, which is paramount in adding predictability to the offspring produced.

The owner of the captive facility was also a taxidermist who received carcasses of hunter-killed cervids from CWD endemic states. He would allow his rehabilitated fawns in his taxidermy studio where they would come in direct contact with the contaminated carcasses. He also would place the sweepings from his shop along the edge of his pens as a weed retardant. New York State Department of Agriculture and Marketing and the USDA believe these rehabilitated deer obtained CWD by direct contact with the CWD positive carcasses from hunter harvested deer brought in from the endemic states. These agencies call it their "leading theory" and "most likely source" of CWD.

Second is concerning the statement "there is no live test for the facilities". It is possible to do a biopsy of a tonsil to test a live animal for CWD. Boulder's Open Space and Parks Department, Boulder Colorado is proposing to capture approximately 100 wild deer, testing them for CWD, tagging them with radio collars then releasing them back into the wild to find out how the disease affects the animals. (The Assoc. Press: 5-19-05) The test is expensive for wild deer but may be more applicable in captive cervids. (Preclinical diagnosis of CWD in captive mule deer and whitetail deer using tonsillar biopsy. Journal of General Virology 83: 2629-2634, 2002).

Third is concerning the statement "the consumption of deer meat infected with the disease is considered a risk". Misleading statements such as these are not supported scientifically and only cause unfounded fear in the public. CWD has been documented by immunohistochemical studies in the brain, spinal cord, eyes, peripheral nerves and lymph nodes, however, there is no evidence it is present in meat. There actually appear to be barriers that exist on a molecular level which prevent it from jumping the species barrier of cervids to cattle or humans. (EMBOJ. 2000; 19:4425-30). The Federal Drug Administration stated on January 19, 2001 that CWD was "no threat to humans or livestock".

Forth is concerning the statement "A recent survey of hunters in Wisconsin where the disease occurs indicated that 36% of hunters may not participate in deer hunting because of their concern of CWD". This survey was done over three years ago in the spring of 2002 when CWD was first found in free ranging deer in Wisconsin. A more recent survey presented at The Second International Chronic Wasting Disease Symposium July 12-14, 2005 by Jerry Vaske with DNR Colorado State University estimated at current prevalence levels of CWD, 2% of the residents would stop hunting in the states that were surveyed. He also stated "Most residents would not change their hunting behavior". In actuality of all the states in the survey, Wisconsin was the least likely to stop hunting because of CWD. Another presentation at the Chronic Wasting Disease Symposium by Paul Shelton with Illinois DNR stated that in Illinois hunting related sales such as gun sales declined by 10% the first year after CWD was identified in Illinois wild deer population in October 2002. He stated, however, at least 50% of this decline was due to natural decline in hunting unrelated to CWD and that sales have recovered to near pre-CWD levels.

Wisconsin's response to CWD is often referred to as an example of the negative impact CWD can have on cervid populations, states economy, hunters, land owners, and other related people affected by a state deer population both wild and captive. In reality, Wisconsin's rapid action led to abandoning stakeholder concerns while human dimensions expertise and research were largely ignored and opportunities to learn from innovations were missed. After two years, neither the biological nor the social goals of the program have been achieved. (Fire in the Sistine Chapel": How Wisconsin Responded to Chronic Wasting Disease. Human Dimensions of Wildlife, 9:165-179, 2004)

Fifth, is concerning the statement "The primary method of spreading CWD has been through interstate transfer of deer and elk into captive pens". The cervid industry has never denied the potential for transfer of CWD via moving live infected animals. This mode of spread will not, however, explain why Wyoming which does not allow cervid farming has the highest prevalence of CWD per square mile of any state in their wild deer population. It will not explain how White Sands, New Mexico found CWD in wild mule deer when there was not a captive cervid facility within 250 miles.

As mentioned, however, several times by speakers such as Dean Goeldner (USDA/APHIS/Veterinary Service) who is heading the implementation of a national CWD monitoring program, Dr. Michael Miller (Colorado Division of Wildlife), Brian Peurt (Canadian Food Inspection Agency) etc., all of whom spoke at the Second International Chronic Wasting Disease Symposium July 12-14, 2005, CWD can be eradicated in captive deer with a CWD monitoring program. Many states including Pennsylvania and Ohio already have CWD monitoring programs for their captive herds in place. At the symposium speakers including Dean Goeldner (USDA), Dr. Michael Miller (Colorado DOW), and Daniel Grear (University of Wisconsin-Madison) stated there is growing evidence of "environmental" transmission of CWD. "Environmental transmission refers to the spread of CWD from contaminated carcasses which are not disposed of properly to live cervids". This can occur when hunters harvest wild deer/elk in states such as Colorado, Wyoming, New Mexico and Illinois, etc., known to have CWD and transfer them back to West Virginia where remnants of the carcasses are not disposed of properly by the taxidermist, meat processor or the hunters themselves. The carcasses harbor the infectious prion which can live in the soil for years during which time they can leach into the soil and water ways where the prion can be ingested by the West Virginian wild deer population. A study by Dr. Beth Williams (Colorado Division of Wildlife) supported this mode of transmission in a study where deer were just as likely to contract CWD from a live infected deer as they were when they were housed in a pen with a dead CWD positive carcass placed in the pen 1-8 years earlier. (Environmental Infectious Diseases: Vol. 10, No. 6, June 2004). With hundreds and very likely thousands of whitetail deer, mule deer and elk harvested in western states and transported back to West Virginia. This mode of transmission certainly remains a potential source of CWD in West Virginia in particular as carcasses are not disposed of appropriately many times.

The West Virginia Department of Natural Resources has on the books existing Rule 58-63. 4.10, which provides: The importation of cervid carcasses and carcass parts into West Virginia from a state or province which has diagnosed chronic wasting disease or from a captive cervid facilities in any state or province is prohibited, except for the meat from which all bones have been removed, the cape, the antlers or antlers and skull plate from which all meat or tissue has been removed, cervid canines and finished taxidermy heads. As per Dr. Michael Miller (Colorado Division of Wildlife) this is not a very effective way to control the potential spread of CWD via hunter harvested deer. He stated a better way is to have the taxidermist, meat processors, and hunters in West Virginia dispose of the harvested carcasses in one of three methods: 1)bury in a land fill, 2)incinerate, 3) alkaline hydrolysis.

West Virginia Deer Farmers Association has for the past three years tried to get the West Virginia Department of Natural Resources to institute a five year CWD monitoring program based on the proposed federal USDA program. Despite, providing West Virginia Department of Natural Resources with recommendations on a monitoring program including copies of current monitoring programs from surrounding states the DNR is no closer to a monitoring program now than it was three years ago. The federal five year program will grandfather in those states that already have a monitoring program in place. Unfortunately, West Virginia will not be able to take advantage of this due to lack of a monitoring program.

The compliance with all of the requirements in Title 58 Series 64 would be so onerous that it would likely result in the extinction of deer farming in West Virginia. Many of the requirements are not based on scientific research but on more of a shot gun approach with little consideration for the actual deer farmer. The requirements are also cost prohibitive to the point where it would be difficult at best to be profitable as a deer farmer in West Virginia.

Regarding Paragraph 7.4.2: A public hearing will be conducted in the appropriate county to solicit public concerns and comments related to the proposed Captive Cervid Facility. A public hearing is not a proper forum to discuss a proposed captive cervid facility as it is privately owned and operated. The general public many times bases their opinions on media hype and not on the scientific facts. The decision to allow or disallow a facility should involve the owner of the facility, the regulatory agency involved with the issuing the permit, and the regulatory agency involved with issues such as herd health, etc.

Regarding Paragraph 7.4.7: The facility shall be double-fenced with a minimum of three feet and a maximum of six feet of cleared ground between perimeter fence and the outside fence.

No other state in the country requires universal double fencing. Even the USDA's proposed rules for their national CWD monitoring program does not require double fencing. At the Second International Chronic Wasting Disease Symposium July 12-14, 2005, Kurt VerCauteren (USDA/APHIS/Wildlife Services) presented a research paper where cameras were placed periodically along fence lines of captive deer and elk facilities. The degree of direct nose to nose contact between captive and wild whitetail

deer was very low. There is no scientific evidence to date that shows double fencing will impact the spread of CWD between wild and captive cervids. At five dollars a foot, double fencing would be an economical impossibility for the majority of the deer farmers. At least one of the deer ranches has over ten miles of fence.

Regarding Paragraph 7.4.8: Total height of fence must be a minimum of eight feet for elk and ten feet for all other cervids.

Total fence height: Perhaps in states that have a much greater amount of snow accumulation ten foot fences may be beneficial, however, deer tend to go under or through a fence instead of over an eight foot fence as currently required. As Brian Peart stated during his lecture at the Second International Chronic Wasting Disease Symposium July 12-14, 2005 "when they say you should add two feet to your fence you should go down and not up as deer tend to go under or through fence and not over it."

Regarding Paragraph 7.4.18: Each captive cervid shall be marked with a unique tattoo in the ear, a metal ear tag with a unique identification number affixed to the ear, or other permanent marker approved by the Director, and a unique marker visible and identifiable at 50 yards.

At the Second International Chronic Wasting Disease Symposium July 12-14, 2005, Dr. Dean Goeldner, (USDA/APHIS/Veterinary Services), recommended states make identification requirements compatible and compliant with the National Animal Identification System. This identification system involves the use of an electronic chip implanted in the animal which stores pertinent information such as location of origin, current location and owner, date of birth, etc. The NAIS is being adopted nation wide by the agriculture department to identify and track all livestock. The cervidae industry realizes the need for an additional visual source of identification such as a numbered plastic ear tag. The need for an ear tattoo, an ear tag and a third visible marker required by West Virginia DNR is redundant and unnecessary.

Regarding Paragraph 7.4.21: The Director has the absolute right to deny any transfer of cervids.

If a captive cervid facility is under an approved CWD monitoring program and has met the transport requirements for the program, the cervid facility should be able to transfer the cervid after filing an application to transfer with the appropriate regulatory agency. The Director of West Virginia's DNR should not have the "absolute right to deny any transfer of cervids" unless there is a justifiable reason.

Regarding Paragraph 7.4.24: Fawns under the age of six months may not be moved or transferred.

Daniel Grear (University of Wisconsin) during his presentation at The Second International Chronic Wasting Disease Symposium, July 12-14, 2005 stated fawns had a low prevalence of CWD since they have not had the potential for exposure to CWD that older deer have had. A large percent of deer sales are fawns since they are the easiest to handle, they adapt to new environments and they bond to the new owners better than an adult deer. This rule would dramatically decrease the marketability of West Virginias captive cervidae.

Regarding Paragraph 7.4.33: In addition, the DNR will immediately initiate active and aggressive CWD surveillance of wild white-tailed deer outside the infected captive cervid facility. All costs associated with the surveillance of wild white-tailed deer outside the captive cervid facility shall be the responsibility of the licensee unless federal funds become available.

It is completely unjustified and unrealistic to require a private individual to assume the cost of depopulation, testing, and disposing of potentially hundreds of animals which are property of the state of West Virginia. If deer test positive on both sides of the fence it would be impossible to determine if CWD was spread from captive to wild deer, or wild to captive deer, or perhaps originated from an independent sources. This rule automatically places blame on the deer farmer.

Regarding Paragraph 7.8.19: Cervids cannot be held or displayed under a menagerie permit.

I fail to see the scientific reasoning for this rule based on a CWD perspective. West Virginia is the only state in the country without a zoo. A menagerie is the closest thing to a zoo WV has and the DNR wishes to prevent the citizens of West Virginia from viewing both native and exotic cervids such as whitetail deer, elk, fallow deer, etc.

Scientific evidence is pointing strongly towards several different modes of transmission of CWD both "direct" and "indirect". West Virginia DNR proposed regulations fail to adequately respond to all the various modes of transmission in away that takes into consideration the fair treatment of all stake holders involved. Despite three years of West Virginia Deer Farmers Association proposing a CWD monitoring program that echoes the ones adopted by states such as Ohio, Pennsylvania, New York, Wisconsin, etc., and the one being proposed by the USDA, our DNR continues to delay the implementation of one. The monitoring program proposed by WVDFA requires a veterinarian certified in cervidae diseases such as CWD, tuberculosis and brucellosis to inspect our livestock for these diseases on a routine basis. Only animals in the monitoring program would be allowed to move interstate or intrastate after a predetermined length of time, typically five years. The DNR's proposed regulations appear geared toward eradication of deer farmers and not prevention of transmissible diseases.

West Virginia's DNR has banned importation of captive cervids into West Virginia since 2002 and last year instituted regulations on importation of hunter-killed carcasses. There has been tremendous effort to enforce the ban on importation and limit the movement of captive cervidae in West Virginia. Little, however, has been done to enforce the regulation of hunter-killed carcasses from states with CWD or to educate West Virginia taxidermists and hunter about the seriousness of importing hunter killed carcasses from CWD endemic states. I am unaware of any purposed regulations or money allocated toward proper disposal of carcasses in West Virginia.

The finger pointing needs to stop as CWD is not a "captive cervid" issue or a "wild cervid" issue. It is simply a "cervid issue" and all involved stakeholders need to pool their energies together to formulate reasonable regulations based on the scientific evidence that protects against all possible modes of transmission of CWD. Involvement of West Virginia deer farmers, DNR, Department of Agriculture, USDA and various sportsmen's groups is tantamount to keeping a healthy, captive and free ranging cervidae industry in West Virginia.

Sincerely,

Ronn A. Grandia, MD, FACS
Executive Director
West Virginia Deer Farmers Association

Whitetails of Oklahoma is an organization of Cervid farmers in Oklahoma with a membership of over 75 breeders. As an organization we are active not only in our state but nationally as well. 2 of our board members sit on the board of NADeFA and 3 sit on the board of the Cervid Livestock Foundation. Our organization is adamantly opposed to the proposed regulation changes in West Virginia concerning Cervid farming and ranching.

Cervid farmers seem to always get the short end of the stick when it comes to regulating our industry. The West Virginia proposed regulations are a blatant example of such harsh regulations attempted to put into place to destroy our industry. Just yesterday it was announced that there is another case of BSE found here in the US. Science has proven that TSE's are naturally occurring and if tested for will be found. What is West Virginia going to do with BSE situation...put all cattle farmers out of business? How about the sheep farmers? There is absolutely no scientific evidence that any privately owned cervids has in anyway caused this disease to spread or was even started by such animals.

We have done an economic impact study in our state of Oklahoma and it has been found that Cervid farming puts over 17million annually into our economy. Deer farming has been around for thousands of years. Farmed venison is the 2nd leading export of New Zealand with the US being one of its largest customers. Deer can be raised on marginal grounds not suitable for other agriculture endeavors. People with such land or small acreages can make a living in rural America raising deer. It goes against everything the United States stands for to over-regulate out of business, people who are trying to make an honest living. We hope that this fact will weigh strong in the deciding of such regulation proposed by your state.

Dave King - Secretary - Whitetails of Oklahoma dsk@crosstel.net

July 27, 2005

Dear Mr. Curtis Taylor,

This letter is to express my comments on the proposed Emergency Rule and Legislative Rule Title 58, Series 64, Miscellaneous Permits and Licenses.

In regards to your comments under Circumstances for these changes, I feel the economic benefits would not be drastically reduced should CWD be discovered in West Virginia as you are guessing. You are basing this deduction on a survey from the state of Wisconsin which is not comparable to West Virginia. CWD has been in Colorado since 1967 at so called epidemic proportions and still exists there. I contacted Colorado Division of Wildlife and was told that the wild cervid herds have been on a steady incline, not a decrease. They are at an all time high. How can you imply that CWD will devastate the deer herd in West Virginia? You say "the primary method of spreading CWD is through interstate transfer of deer and elk into captive pens." Since the borders have been closed and NO CWD is evident in West Virginia at this time, Where is the Emergency? Monitoring deer that die unexpectedly or are sick should be sufficient. 100% testing should not be necessary. New Zealand has 5000 cervid farms that hold approximately 1.7 million cervids and they go no where near these proposed extremes for CWD testing. Of all the wild deer that freely cross state borders, only a very small percentage of deer harvested in West Virginia are tested for CWD. The cost of this 100% monitoring would be devastating to a small business.

In paragraph 7.4.8., why is the proposed 10 foot fence necessary when an 8 foot fence has not been a problem in the past? Six foot corner posts in the ground are totally unheard of in the agriculture industry.

In paragraph 7.4.14., all testing of captive cervids must be performed by accredited veterinarians certified by the USDA. The tests on cervids include CWD, TB and Brucellosis but yet you sent out a letter wanting our district biologists to remove brain tissue for CWD testing. They are NOT accredited veterinarians certified by the USDA to perform this first step in CWD testing.

In paragraph 7.4.18., you want each captive cervid marked by 3 forms of identification. This should not be necessary. An ear tag can be installed on a fawn that is two days old. To install additional tag or tattoo after that, requires the animal to be tranquilized which puts the animal at an unnecessary risk of dying from chemical immobilization. You say you want an ear tag visible from 50 yards- you might as well paint the animal orange since there is not an ear tag legible at 50 yards.

In paragraph 7. 4. 20., prior approval to receive or transfer captive cervids between existing game farms is not necessary since transfers have to be reported in 15 days to LES captains.

In paragraph 7.4.21., the director should NOT have the absolute right to deny any transfer of cervids as stated, without justification.

In paragraph 7. 4. 22., this section states no genetic material may be received by a captive cervid facility that have originated or been housed with animals originating from any state that has confirmed CWD or TB positive cervid in the last 60 months. This would have a devastating effect on the sportsman where as deer urine (which is genetic material) and some cover scents would have to be banned since it could not be regulated effectively.

In paragraph 7. 4. 24., This states that fawns under the age of 6 months may not be moved or transferred. The sell of fawns is a large part of our business.

Since this Emergency Rule was filed, I have visited the DNR's captive cervid facility- French Creek Game Farm- where I observed co-mingling between whitetail deer and bison, whitetail deer that had no tags or tattoos ~~behind nothing~~ but an electric fence, large timber that could fall on

any fence along with 4 wild whitetail deer on this property approximately 25 yards from the captive cervid fence. How can you know what these wild deer have been exposed to? These are all violations of the proposed Emergency Rule. My question is- if there is such a dire emergency, why hasn't anything been done with this facility to eliminate the chance of CWD in this facility? You have less knowledge of what these wild deer have been exposed to in the wild prior to your acquiring them, than we do with our captive born deer. I have invested in excess of \$30,000 getting my facility started and purchasing whitetail deer from instate deer farmers. There can be an big economical impact for West Virginia as well as individual deer farmers since there is a growing need for farm-raised deer. This is evident by the increased importation to United States from New Zealand and the growing number of hunting preserves across the country. The total exports from cervids in New Zealand in 2004 was \$ 214,482,936. I personally took just three hunters to Pennsylvania this past year that spent \$15,000 in one day to kill Elk because they could not find a suitable hunting preserve in West Virginia. There are hundreds of people that will come to West Virginia to spend money for such a hunt.

If you look at the overview of this proposed Emergency Rule along with the large amounts of negative publicity against the deer farmers from the DNR shows clear evidence that the DNR is using the threat of CWD to eliminate the captive cervid industry in West Virginia.

I feel that cervid farms are an agricultural business. I am required to list and pay taxes on my deer when I fill out my agriculture farm report with the County Assesor. This business should be regulated by a department more qualified for disease control such as the Department of Agriculture.

Sincerely,

John R. Rose

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0. u \ *Pennsylvania Deer*
Farmers Association,

To Preserve, Protect & Promote the Deer Industry in Pennsylvania

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EPLY TO; July 26.
2005

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Mr. Curds I. Taylor, Chief

Wildlife Resources Section

Capitol Complex, Building 3, Room 812

Charleston, WV 25305

RE: Proposed Regulations amending Title 58, Series 64 (relating to DNR's miscellaneous permits and licenses)

Dear Mr. Taylor:

On behalf of the Pennsylvania Deer Farmers Association, I write to you regarding the proposed regulations to address the issue of Chronic Wasting Disease (CWD) in West Virginia. In addition to concerns of its impact on commercial opportunities with deer farmers between our two states, we have a tremendous concern over how our neighbor states are attempting to mitigate the risk of CWD transmission.

Pennsylvania Deer Farming:

In the Commonwealth of Pennsylvania, there are over 1,000 propagators permitted by the Pennsylvania Game Commission (with 75% of them being active deer farmers). Deer farms are dually regulated by the Department of Agriculture and the Pa. Game Commission. Pennsylvania's privately owned herds include more than 35,000 head of deer behind fences. Informal surveys of the Commonwealth's deer farmers indicate that residents of Pennsylvania have invested hundreds of millions of dollars in their land, deer herds and equipment.

Revenues from the sale of venison, antlers, semen for artificial insemination, deer scent (i.e. urine) and trophy class hunting ranches reach well into the millions of dollars every year in Pennsylvania. In turn, deer farming in PA produces substantial tax revenues for the state, local municipalities and school districts every year.

Pennsylvania's deer farming community is more than twice the size of New York State's. With as much as Pennsylvania's deer farmers have invested, it is important that we take an active role in the prevention and management of disease -particularly CWD.

We participate in the Commonwealth's voluntary CWD monitoring program and have more than half of all privately-owned deer monitored (with the vast majority achieving four-year monitored status). The Pa. Department of Agriculture is currently pursuing a mandatory monitoring program. Not only do we support such a program, but we maintain a constant dialog with the Department staff in order to facilitate the development of an effective, science-based program.

Mr.
Curtis
I.
Taylor
July
26,
2005
Page 2.

We are also stakeholders in the CWD Response Plan working group. We work side-by-side with the Department of Agriculture, the Pa. Game Commission, the state Department of Conservation and Natural Resources, the USDA, and various sportsmen's groups. Stakeholders have come to understand that the issue of CWD transmission is not a "captive cervid" issue, or a "wild cervid" issue. It is simply a "cervid issue," and we serve no legitimate purpose by pointing fingers at one another.

In Pennsylvania, we attack the problem of disease transmission using a three-pronged approach.

The Pa. Game Commission does an admirable job testing for CWD in the wild. In fact, the number of heads tested in the Commonwealth has more than doubled over the past few years (last year they tested approximately 4,000 heads). Our Game Commission is allocating necessary resources in areas of the state where CWD could 'walk across our borders on, four legs.'

The cervid farming community has been working closely with state agencies for many years. As stated previously, more than half the deer in the state are being monitored and within the near future the entire privately-owned cervid population will be under a mandatory monitoring and testing program administered by the Department of Agriculture. We also allocate private resources and aid in the collection and disposition of samples for CWD testing. I've heard on more than one occasion that PA, deer farmers do an excellent job collecting samples and bringing them to state testing facilities. Finally, we engage our membership with annual seminars on "best practices" in deer management and disease prevention.

Most recently — and in response to the CWD outbreak in Oneida County — the Game Commission has begun the process of promulgating regulations to-ban the feeding of wild deer and regulate the importation of hunter killed carcasses. The Department of Agriculture and the Game Commission have recently embarked on an intensive educational effort with the Commonwealth's taxidermy and sportsmen community about the issue of carcass importation and disposition.

Our goals are simple: Prevention through proper management, identification, eradication.

New York State and CWD:

There has been much discussion among stakeholders about what exactly happened in Oneida County, New York. Indeed, your regulatory summary indicates that you are responding to the problem in New York State by promulgating new regulations. It is tremendously important that state officials understand what occurred with our neighbors to the North in order to effectively respond to the situation.

There are any number of ways that CWD could have found its way into the state of New York. However, NY State officials point to one theory as the most likely way that the disease jumped across two or three states into Oneida County (and it has little or nothing to do with deer farming).

PCC Press Release #055-05, dated June 29, 2005. Again, explaining the Oneida County circumstance is not meant to point the finger of blame. Rather, we encourage you to use the information to better protect WV's wild and captive cervid population.

West Virginia and CWD:

From the introductory paragraphs of the proposed regulation, it appears that your agency has predetermined that CWD will be transmitted via a farm-raised cervidae within West Virginia.

If I understand West Virginia's current regulatory posture, importation of privately owned cervids has been effectively banned for the past eight (8) years, and export of such animals are done only under strict regulation. The state has instituted restrictions on importation of hunter-killed carcasses, but has done little to enforce the regulation or educate WV taxidermists and hunters about the seriousness of importing hunter killed carcasses from CWD endemic states. I am unaware of any regulations on the proper disposal of carcasses. The state of WV does not maintain a CWD monitoring program (voluntary or otherwise) and does little testing of hunter-killed wild cervids in WV for CWD.

Mr. Cures I.
Taylor July
26, 2005
Page 4.

Our chief concerns are two-fold. First, your proposed regulation seems geared toward eradication of deer forms and not prevention of transmissible disease. Second, by failing to recognize the very real means of CWD transmission, you could be creating a situation where CWD could travel through West Virginia to Pennsylvania. By misplacing valuable state resources your efforts might yield the inverse effect than the one desired.

We implore you to set these regulations aside and develop a more meaningful strategy for disease prevention. Talk to your neighbor states. Develop a collaborative relationship between your state agencies and the private sector. Implement regulations to address the real issues, while at the same time encourage productive use of the land and the entrepreneurial spirit of your residents. I assure you that the two goals are not mutually exclusive.

In closing, the Pennsylvania Deer Farmers Association has grave concerns over these proposed regulations. We believe that expending scarce state resources on politically popular, but ineffective, measures will do nothing to prevent the spread of disease through your state and will only hasten its spread to the southwestern border of the Commonwealth of Pennsylvania.

I appreciate your attention to this correspondence. If you have any questions or concerns about the contents of this letter, please do not hesitate to contact me directly.

Respectfully submitted,



James G. N.
Bush

lann. Esquire sylvania Deer

Dave Griffith, PDFA President

July 28, 2005

Curtis Taylor, DNR
Wildlife Resources Sec.
Capitol Complex, Bld. 3
Room 812
Charleston, WV 25305

Dear Sir:

I have been asked by the deer farmers and ranchers of West Virginia to give comment on the proposed new rules for privately owned whitetail in your state. The recent discovery of CWD in New York does re-emphasize the need for monitoring for CWD. This does not need to bring on similar hysteria that the Wisconsin DNR did three years ago. In the circumstances section of this rule, several things appear to me; although true, did not tell the whole story. CWD has been always fatal at the Colorado Division of Wildlife Research Facility in Fort Collins, Colorado and at the USDA facility in Ames, Iowa. Wisconsin DNR with the University of Wisconsin captured 26 whitetail deer from the Mt. Horeb area; the center of CWD eradication zone in Wisconsin. They performed a tonsil biopsy on those deer, radio collared them and released them. Their goal was to study the movement of whitetail deer in that area. Three deer came back positive for CWD from the tonsil biopsy. Rather than study CWD in the wild by following the life history of these deer, the Wisconsin DNR went out and destroyed these animals. These animals did test positive by the IHC test. What was lost was the ability to find out what happened to the CWD positive deer if they were allowed to live a normal life in the wilds of Wisconsin.

Could hunting be affected by CWD being found in West Virginia? Answer: possibility. In a survey done by Wisconsin's DNR after they used tactics to cause hysteria in the public about CWD, 36% of the potential hunters did say they would not hunt. That did not happen. What happened is the Wisconsin DNR got land owners so galvanized against them that the land owners did not allow hunting on their property. The normal hunting harvest in the eradication zone is around 10,000 animals. The fall after CWD being found in Wisconsin, the hunting harvest in that area was a little over 9,000 animals. Since then, in the last two years, hunter harvest has been at approximately 11,000 animals. The deer population has remained a steady state in the eradication zone in Wisconsin, no effect has been realized on the population and the infectivity rate has also remained constant at approximately 0.02% of the population are infected with CWD. This clearly shows that with normal hunter harvest population controls, CWD would remain under control.

CWD has moved by the private owned cervid industry. It was not our intention. Colorado Division of Wildlife helped with that problem immensely. With the production of animals inside their research facility and the need to create income, this lead them to sell several deer and elk into the private sector of the industry, in the early 1990's. Before that time, the private sector industry did not have CWD.

Here in Iowa three years ago, the DNR implemented the CWD monitoring program. Nine of the 12 surrounding states would not accept a herd health program being regulated by the law enforcement agency. I see through these proposed rules there is reference given to accredited vets, the USDA federal rules, the USDA accreditation programs. Clearly the person writing these rules also saw that animal health experts need to be involved. Many states have turned over these herd health issues to the respective agriculture departments to administer those rules. This then allows the DNR to allow for focus on their expertise, the wild deer and elk populations.

I have information that several eastern states have released elk from CWD positive states. In my lay opinion, the threat of CWD brought in already from those elk is much greater than what the privately owned herds pose.

Also, a major threat to CWD is the movement of hunter harvest carcasses from CWD infected areas. Miller and Williams of Colorado Division of Wildlife conducted studies that showed it was just as likely that deer contracted CWD from being housed with a live positive animal as it could with an 18 month decayed carcass. In the New York CWD cases, official's area clearly looking at that situation in their state for the possibility that contaminated carcasses is the way that CWD was brought into New York and then was transmitted to the rehabilitated fawns. Please see attached, the story behind the facts of the New York cases.

The compliance with all of the requirements in Title 58 Series 64 would be so onerous that it would likely result in the extinction of deer farming in West Virginia. Many of the requirements are not based on scientific research but on more of a shot gun approach with little consideration for the actual deer farmer. The requirements are also cost prohibitive to the point where it would be difficult at best to be profitable as a deer farmer in West Virginia.

Regarding Paragraph 7.4.2: A public hearing will be conducted in the appropriate county to solicit public concerns and comments related to the proposed Captive Cervid Facility.

A public hearing is not a proper forum to discuss a proposed captive cervid facility as it is privately owned and operated. The general public many times bases their opinions on media hype and not on the scientific facts. The decision to allow or disallow a facility should involve the owner of the facility, the regulatory agency involved with the issuing the permit, and the regulatory agency involved with issues such as herd health, etc.

Regarding Paragraph 7.4.7: The facility shall be double-fenced with a minimum of three feet and a maximum of six feet of cleared ground between perimeter fence and the outside fence.

No other state in the country requires universal double fencing. Even the USDA's proposed rules for their national CWD monitoring program does not require double fencing. At the Second International Chronic Wasting Disease Symposium July 12-14, 2005, Kurt VerCauteren (USDA/APHIS/Wildlife Services) presented a research paper where cameras were placed periodically along fence lines of captive deer and elk facilities. The degree of direct nose to nose contact between captive and wild whitetail deer was very low. There is no scientific evidence to date that shows double fencing will impact the spread of CWD between wild and captive cervids. At five dollars a foot, double fencing would be an economical impossibility for the majority of the deer farmers. At least one of the deer ranches has over ten miles of fence.

Regarding Paragraph 7.4.8: Total height of fence must be a minimum of eight feet for elk and ten feet for all other cervids.

Total fence height: Perhaps in states that have a much greater amount of snow accumulation ten foot fences may be beneficial, however, deer tend to go under or through a fence instead of over an eight foot fence as currently required. As Brian Peart stated during his lecture at the Second International Chronic Wasting Disease Symposium July 12-14, 2005 "when they say you should add two feet to your fence you should go down and not up as deer tend to go under or through fence and not over it."

Regarding Paragraph 7.4.18: Each captive cervid shall be marked with a unique tattoo in the ear, a metal ear tag with a unique identification number affixed to the ear, or other permanent marker approved by the Director, and a unique marker visible and identifiable at 50 yards.

At the Second International Chronic Wasting Disease Symposium July 12-14, 2005, Dr. Dean Goeldner, (USDA/APHIS/Veterinary Services), recommended states make identification requirements compatible and compliant with the National Animal Identification System. This identification system involves the use of an electronic chip implanted in the animal which stores pertinent information such as location of origin, current location and owner, date of birth, etc. The NAIS is being adopted nation wide by the agriculture department to identify and track all livestock. The cervidae industry realizes the need for an additional visual source of identification such as a numbered plastic ear tag. The need for an ear tattoo, an ear tag and a third visible marker required by West Virginia DNR is redundant and unnecessary.

Regarding Paragraph 7.4.21: The Director has the absolute right to deny any transfer of cervids.

If a captive cervid facility is under an approved CWD monitoring program and has met the transport requirements for the program, the cervid facility should be able to transfer the cervid after filing an application to transfer with the appropriate regulatory agency. The Director of West Virginia's DNR should not have the "absolute right to deny any transfer of cervids" unless there is a justifiable reason.

Regarding Paragraph 7.4.24: Fawns under the age of six months may not be moved or transferred. Daniel Grear (University of Wisconsin) during his presentation at The Second International Chronic Wasting Disease Symposium, July 12-14, 2005 stated fawns had a low prevalence of CWD since they have not had the potential for exposure to CWD that older deer have had. A large percent of deer sales are fawns since they are the easiest to handle, they adapt to new environments and they bond to the new owners better than an adult deer. This rule would dramatically decrease the marketability of West Virginia's captive cervidae.

Regarding Paragraph 7.4.33: In addition, the DNR will immediately initiate active and aggressive CWD surveillance of wild white-tailed deer outside the infected captive cervid facility. All costs associated with the surveillance of wild white-tailed deer outside the captive cervid facility shall be the responsibility of the licensee unless federal funds become available.

It is completely unjustified and unrealistic to require a private individual to assume the cost of depopulation, testing, and disposing of potentially hundreds of animals which are property of the state of West Virginia. If deer test positive on both sides of the fence it would be impossible to determine if CWD was spread from captive to wild deer, or wild to captive deer, or perhaps originated from an independent source. This rule automatically places blame on the deer farmer.

Regarding Paragraph 7.8.19: Cervids cannot be held or displayed under a menagerie permit.

I fail to see the scientific reasoning for this rule based on a CWD perspective. West Virginia is the only state in the country without a zoo. A menagerie is the closest thing to a zoo WV has and the DNR wishes to prevent the citizens of West Virginia from viewing both native and exotic cervids such as whitetail deer, elk, fallow deer, etc.

The deer farmers of West Virginia have told me that for three years they have attempted to get a CWD monitoring program implemented. Now is the time for level heads to prevail. Sit down with the deer farming industry and create rules that make sense using the science that is known about the diseases that face you, guide you. Please don't let the media hype brought on by misinformation lead you down the wrong path. Implementing rules that put these people out of business is not the way a stronger America is made.

Sincerely,

Fred Huebner
President, North American Deer Farmers Association and
President, Iowa Whitetail Deer Association
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KEYSEN

**TITLE 58
LEGISLATIVE RULE
BUREAU OF COMMERCE
DIVISION OF NATURAL RESOURCES**

**SERIES 64
MISCELLANEOUS PERMITS AND LICENSES**

§58-64-1. General.

1.1. Scope and Purpose. -- This rule establishes procedures concerning the application for and renewal of certain permits and licenses issued by the Division and the keeping of records, submission of reports and other terms and conditions associated with such permits and licenses.

1.2. Authority. -- W. Va. Code §§20-1-7(20) and 20-1-7 (30).

1.3. Filing Date. -- May 10, 1996.

1.4. Effective Date. -- May 10, 1996.

1.5. Repeal of Former Rule. -- This rule repeals and replaces 47 CSR 48A "Miscellaneous Permits and Licenses" which was filed on July 28, 1989 and became effective on September 1, 1989.

§58-64-2. Definitions.

2.1. "Applicant" means a person of at least eighteen (18) years of age who is applying for any one of the following permits and licenses issued by the Division under the provisions of W. Va. Code 20-2 et seq.

2.1.1. 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). Three categories of this license will be issued by the Division:

2.1.1.a. Commercial game farm license. 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 Division rules governing the commercial sale of wildlife (58 CSR 63). This license does not include the acquisition or holding of foxes or raccoons trapped from the wild by a legal trapper under provisions of W. Va. Code §20-2-11.

2.1.1.b. Hound coursing/training pen game farm license. This license authorizes the holder to purchase, hold, and release into hound coursing/training pens in accordance with the provisions of this rule and under terms and conditions of the license, live foxes and raccoons obtained from the wild by a legal trapper under provisions of W. Va. Code §20-2-11 or live wildlife obtained by means specified under 58 CSR 63 Section 3.

2.1.1.c. Incorporated sportsmen club restocking game farm license. This license authorizes incorporated sportsmen clubs in West Virginia to purchase, hold, and release in accordance with the provisions of this rule and under terms and conditions of the license, live foxes and raccoons obtained from the wild by a legal trapper under provisions of W. Va. Code §20-2-11 or other means specified under 58 CSR 63 Section 3 for the purpose of restocking.

2.1.2. 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 Division rules

governing the commercial sale of wildlife (58 CSR 63). Two categories of this license will be issued by the Division:

2.1.2.a. A fish pond license to raise and sell fish, frogs, turtles, or other forms of aquatic life.

2.1.2.b. A fish sales license to buy and resell fish, frogs, turtles, or other forms of aquatic life.

2.1.3. A permit to keep and maintain in captivity as a pet a wild animal or wild bird that has been acquired from a commercial dealer or taken by the applicant during the legal open hunting or trapping season established under 58 CSR 45 (W. Va. Code §20-2-51).

2.1.4. A permit to keep and maintain in captivity as a roadside menagerie wild animals, wild birds, amphibians, or reptiles (W. Va. Code §20-2-52).

2.1.5. A license for the operation of a privately-owned pond or impoundment to be used as a commercial fishing preserve (W. Va. Code §20-2-53).

2.1.6. A license for the operation of a privately-owned commercial shooting preserve (W. Va. Code §20-2-54).

2.1.7. A license to catch and sell minnows or other bait fish (W. Va. Code §20-2-55).

2.1.8. A permit to any person, group of persons, club, or organization to hold or conduct a field trial, shoot-to-retrieve field trial, water race, or wild hunt (W. Va. Code §20-2-56).

2.2. "Chief" means the chief of the Law Enforcement Section of the West Virginia Division of Natural Resources.

2.3. "Division" means the West Virginia Division of Natural Resources.

2.4. "Director" means the director of the West Virginia Division of Natural Resources.

2.5. "District Office" means the office of the West Virginia Division of Natural Resources that houses Division personnel in a district.

2.6. "Section" means the Law Enforcement Section of the West Virginia Division of Natural Resources.

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

2.8. "Fiscal Year" means July 1 of one year through June 30 of the following year.

2.9. "Licensee" means a person who has been issued one of the permits and licenses listed in Section 2.1 of this rule.

2.10. "Wild Animals" means all mammals native to West Virginia, except house mice and rats.

2.11. "Wild Birds" means all birds except domestic poultry (chickens, ducks, geese, guinea fowl, peafowls, and turkeys), members of the family Psittacidae (parrots and parakeets), and other foreign cage birds such as the common canary, exotic finches, and ring doves. The term "wild birds" includes both birds that occur in a natural state in West Virginia and imported foreign game birds such as grouse, partridges, pheasants, quail, and waterfowl.

2.12. "Commercial dealer" means a licensee holding a license as defined in Section 2.2.1.a. or an out-of-state person/business licensed to sell and export wildlife.

2.13. "Legal Trapper" means a trapper possessing a valid West Virginia trapping license or equivalent (W. Va. Code 20-2-27, 20-2-28).

2.14. "Hound Coursing/Training Pen" means a permanent enclosure of no less than forty (40) acres from which there is no reasonable expectation of escape of the animals placed within.

2.15. "Incorporated Sportsmen Club" means a club, organization, or group formed for a common purpose to further the tradition of hunting, fishing, or trapping and registered with West Virginia Secretary of State for such purpose.

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

§58-64-3. Application Submission and Review.

3.1. Except as provided in Section 3.1.1 of this rule, an applicant must submit the appropriate and completed application form furnished by the Division to the district office which serves the county in which the applicant's facility is located.

3.1.1. An applicant for a commercial shooting preserve license issued under W. Va. Code §20-2-54 must submit the appropriate and completed application form furnished by the Division to the address supplied on that form.

3.2. Application forms may be obtained at any district office or from the West Virginia Division of Natural Resources, Law Enforcement Section, Building 3, State Capitol Complex, Charleston, West Virginia 25305.

3.3. An application will not be considered to be complete unless the specified licensing fee and a copy of the applicant's West Virginia Business Registration Certificate (if applicable) are attached to the submitted application form.

3.4. Licensing fee payments must be made by personal check or money order payable to the West Virginia Division of Natural Resources.

3.5. Any inspection of an applicant's facility and wildlife will be made in accordance with the provisions of Section 6 of this rule.

3.6. Upon the completion of application review, Division personnel will recommend to the chief that the permit or license sought by the applicant be either granted or denied.

3.6.1. If the chief accepts a recommendation to deny the granting of a permit or license, he must notify the applicant of the denial and the reasons therefor.

3.7. All permits and licenses listed in Section 2.1 of this rule will be issued by the chief.

3.8. All licensees must comply with the Temporary or Permanent Cage/Pen/Housing Requirements as set forth in Appendix A.

§58-64-4. Renewal of Issued Permits and Licenses.

4.1. Except as provided in Section 4.1.1 of this rule, all permits and licenses issued under this rule will expire on December 31 of the year of issue.

4.1.1. A commercial shooting preserve license issued under W. Va. Code §20-2-54 will expire on June 30 of the fiscal year of issue.

4.2. A licensee may seek to renew an issued permit or license by submitting an updated application to the Division no later than one month prior to the date upon which his permit or license expires.

4.2.1. A renewal application will be submitted by the licensee and processed by the Division in accordance with the provisions of Section 3 of this rule.

4.2.2. A one-month extension for an issued permit or license may be granted by Division personnel in order to facilitate the review and processing of a licensee's renewal application. No fee will be charged for an extension.

4.3. A permit or license issued under this rule may not be sold or transferred.

§58-64-5. Record Keeping and Reporting.

5.1. Records must be maintained by the licensee in accordance with the terms and conditions of the issued permit or license.

5.2. Reports must be submitted by the licensee to the chief in accordance with the terms and conditions of the issued permit or license.

§58-64-6. Inspections.

6.1. An applicant's facility and wildlife may be inspected by Division personnel, on a case by case basis, prior to the granting of the desired permit or license, except as provided in Section 6.2 of this rule.

6.2. Division personnel will inspect an applicant's facility and wildlife prior to the granting of a game farm license under W. Va. Code §20-2-47, a fish pond license under W. Va. Code §20-2-48, or a roadside menagerie permit under W. Va. Code §20-2-52 to assure compliance with all requirements mandated by statute or rule.

6.2.1. Prior to the issuance of a game farm license, Division personnel will determine that the game farm is properly enclosed, that the provisions for housing and sanitation are proper and adequate, and that the safety of the public is protected.

6.2.2. Prior to the issuance of a fish pond license, Division personnel will determine that the fish plant or pond will not interfere with the free passage of fish, that any water diverted to such plant or pond does not violate the riparian rights of other landowners, and that such plant, pond, or diversion will not interfere with the public stocking or propagation of fish frequenting such waters.

6.2.3. Prior to the issuance of a roadside menagerie permit, Division personnel will determine that the provisions for housing and care of wildlife to be kept in captivity at the menagerie are proper and adequate and that the safety of the public is protected.

6.3. 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 rule or by the terms and conditions of the licensee's permit or license.

§58-64-7. Terms and Conditions.

7.1. Game Farm License. The following terms and conditions apply for this license.

7.1.1 Wildlife enclosures must meet the minimum requirements set forth in Appendix A. In addition, all enclosures must be strong enough to both prevent escape of the captive wildlife and protect them from injury. All enclosures must be equipped with a safety barrier which adequately prevents any physical contact between the captive wildlife and visitors or customers. Cages considered unsafe by Division personnel must be repaired or reconstructed as directed within sixty (60) days.

7.1.2. Each enclosure must be provided with a shelter that is appropriate for the wildlife held captive. Shelters must contain bedding or nesting material as may be required for the comfort of the wildlife and be constructed in a manner that protects them from inclement weather.

7.1.3. Fresh drinking water must be provided daily. Swimming or wading pools must be cleaned as needed to ensure good water quality. Wildlife enclosures must be adequately drained.

7.1.4. Food must be wholesome, palatable, free from contamination, and of sufficient quantity and nutritive value to maintain all animals in good health. The diet must be prepared with consideration for age, species, condition, size and type of animal. Wildlife must be fed at least once a day, except as dictated by hibernation, veterinary treatment, normal fasts, or other professionally-accepted practice.

7.1.5. Fecal and food waste must be removed from cages daily and stored or disposed

of in a manner which prevents noxious odors or insect pests. Food and water containers must be kept clean. Hay, straw, or other bedding or nesting material must be replaced as needed. All waste must be disposed of in a legal manner.

7.1.6. All wildlife must be kept free from parasites, sickness or disease. If sick, wildlife must be given immediate professional medical attention or be humanely destroyed.

7.1.7. Any damage or injury resulting from escape of wildlife held under the authority of this license shall be the sole responsibility of the licensee.

7.1.7.a. Wildlife which escapes and poses no threat to the public shall become the property of the State.

7.1.7.b. Wildlife which escapes and poses a potential threat to the public safety may be disposed of by the Division personnel.

7.1.8. Any condition which results in wildlife escaping from its enclosure, cage, housing, leash or other constraint shall be prima-facie evidence that the escaped wildlife was held in an unsafe manner and shall be a violation of the license.

7.1.9. This license does not authorize the holder to capture wildlife from the woods or fields of this State, or to acquire live trapped raccoons and foxes from trappers in West Virginia to be used as stock at the game farm.

7.1.10. The licensee must obey Division rules governing the commercial sale of wildlife (58 CSR 63).

7.1.11. The licensee must display his license in plain view in the vicinity of his wildlife enclosure(s).

7.1.12. Accurate and current records of all wildlife acquisitions and sales or possession transfer 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 the facility for a minimum period of three (3) years. In addition the licensee shall provide a bill of sale or document to each person who purchases or receives the licensee's wildlife. The bill of sale or document shall, at a minimum, contain the following information.

7.1.12.a. The seller's name and address.

7.1.12.b. The seller's commercial game farm license number.

7.1.12.c. The date of the sale.

7.1.12.d. The purchaser's name and address

7.1.12.e. A description of the wildlife sold or transferred, including the number of each species sold or transferred.

7.1.13. 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 rule or by the terms and conditions in this license.

7.2 Hound Coursing/Training Pen Game Farm License. The following terms and conditions will apply for this license.

7.2.1. Hound coursing/training pens and wildlife enclosures must meet the minimum requirements set forth below and in Appendix A. In addition, all wildlife enclosures and hound coursing/training pens must be strong enough to both prevent escape of the captive wildlife and protect them from injury. All enclosures must be equipped with a safety barrier which adequately prevents any physical contact between the captive wildlife and visitors or customers. Cages consid-

APPENDIX A

PERMANENT CAGE/PEN/HOUSING REQUIREMENTS

When wildlife is kept for more than thirty (30) consecutive days at the same location, such wildlife shall be placed in enclosures meeting, at a minimum, the requirements below:

1. White-Tailed Deer

48,560 sq FT per AC,

a. Cage size for one deer

- 1) 500 square foot paddock with 8'H fence

b. Cage size for each additional deer

- 1) Increase enclosure area by 25%

c. Accessories

- 1) Roofed shelter

2. Black Bears

a. Cage size for one bear

- 1) 25'L by 12'W by 8'H

b. Cage size for pair

- 1) 30'L by 15'W by 8'H

c. Accessories

- 1) Roofed shelter
- 2) EXTREMELY DANGEROUS - DO NOT MOLEST signs

3. Elk or Buffalo

a. Cage size for one animal

- 1) 1,000 square foot paddock or corral

b. Cage size for each additional animal

- 1) Increase enclosure area by 25%

① Accessories

1) Roofed Shelters

2) DANGEROUS DO NOT MOLEST SIGN

**WEST VIRGINIA DEER FARMERS ASSOCIATION
CERVID HERD MONITORING AND SURVEILLANCE PROGRAM**

CHRONIC WASTING DISEASE

Sample

MIDDLE RIDGE WHITETAIL DEER (FARM NAME)

CHAS + REB. Kimble (OWNER)

I desire to place my entire cervid herd under the supervision of the regulatory agent of The WVDFA (hereinafter referred to as "the agent", for the purpose of monitoring for chronic wasting disease (CWD).

It is understood and agreed that the above named agent shall assist me in establishing and maintaining a monitoring program, under the provisions of existing policies, that minimize the risk that my cervid herd is infected with CWD. In consideration of the assistance to be given by the agent, I hereby agree to the terms of the agreement and to fulfill the following requirements.

1. Maintain an accurate herd inventory, to include a record of herd changes (additions and deletions). This shall be provided to the owners veterinarian and agent at the onset of enrollment and annually thereafter.
2. Submit brain tissue or whole head of any animal over 16 months* of age that dies, including slaughter, to an approved laboratory for CWD evaluation. As a minimum, the brain stem shall be examined histologically and, if indicated, by immunohistochemistry.
3. Fencing shall be adequate to prevent ingress and egress of cervids.
4. To maintain and care for my cervids under a clean and sanitary system of herd management and to follow reasonable suggestions and recommendations of the agent.
5. To identify all cervids in the herd with an official ear tag or other individual identification as approved by the agent.
6. No claim will be made against the agent or veterinarian for any unfavorable results or injuries to animals that may be caused by handling or testing of cervids as part of monitoring program.

* This age may change based on the publications of national program standards.

Name of herd veterinarian:

Dr. F. R. ADAMS Address Keyser WV

Telephone number: 304-788-7868

Owner's Address P.O. Box 219
Foet Ashby WV

Address of Farm (if other than above):

Same

WV Game Permit Number: 07210

Owner's Telephone Number: 304-298-3930

Signature (Owner): Charles W. Smith

Signature (Veterinarian): Fred R. Adams

Sample

2/24/04

INSPECTION OF DEER FARMS AND LIVESTOCK

sample

Fred R. Adams, DVM

RT 6 Box 6830 Keyser, WV 26726
304-788-7868

Date: Feb 24, 2004

This is to inform you that I did visit the facility known as MIDDLE RIDGE DEER FARM

Address HC 86 Box 17, FORT ASHBY, W.V. 26719

Owned By Chas./ Reb Kimble

The inspection included a review of the entire facility, ie

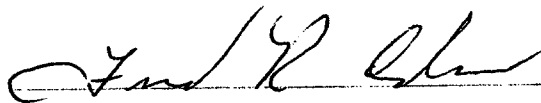
- 1) Fencing
- 2) Feeding and watering equipment
- 3) General health and appearance of deer
- 4) Shelter and housing
- 5) Cleanliness

☒ The fore mentioned farm dose meet or exceeded all criteria expected for the farming of cervids.

☐ The fore mentioned farm does not meet all criteria expected for the farming of cervids.

☐ The farmer has _____ months to correct the area(s) marked, when a reinspection will take place at the owners expense.

☐ As part of an ongoing effort to assure that these cervids are bred and raised in proper surroundings, this inspection will be performed annually at owners expense.



Fred R. Adams, DVM

Special Requirements for New Captive Cervid Facilities
Licensed by the
West Virginia Division of Natural Resources

November 12, 2004

The Director of the West Virginia Division of Natural Resources (DNR) shall only issue new licenses for captive Cervid facilities after he has determined that the proposed new facility and the source animals to be housed in the facility constitute a minimal threat for spreading Chronic Wasting Disease (CWD) or other transmissible diseases within West Virginia and/or the state's white-tailed deer herd. Effective immediately, the following special requirements will be in effect for any new captive Cervid facilities licensed by the DNR. These requirements shall remain in effect until such time as the United States Department of Agriculture (USDA), Animal and Plant Health Inspection Service (APHIS) promulgates rules and regulations dealing with CWD herd certification, interstate transportation and sale of captive Cervids (i.e., *CWD Herd Certification Program and Interstate Movement of Captive Deer and Elk*).

Application and Initial Inspection

- The application for a license to operate a captive Cervid facility shall be made on forms provided by the DNR.
- The completed application shall be forwarded to the Director for review by the Law Enforcement Section (LES) and Wildlife Resources Section (WRS).
- The facility shall be jointly inspected by personnel from the LES and WRS. These personnel shall determine if the facility meets the minimum requirements as set forth below.
- A public hearing will be conducted in the appropriate county to solicit public concerns and comments relating to the proposed captive Cervid facility.

Minimum Requirements for Facilities

- The facility shall be constructed of such material, strength and design to contain the captive animals within the enclosure, safeguard both the captive animals and the public against injury, prevent the transmission of disease by direct contact from the captive animals to wild white-tailed deer and the public, prevent escape of captive animals and prevent wild white-tailed deer from entering the enclosure.
- Perimeter fencing must be adequate to prevent ingress or egress of Cervids and be constructed to withstand commonly expected occurrences that would cause the fence to be breached. Such occurrences shall include, but not be limited to, high winds, ice storms, large snowfall amounts and flooding.

- The perimeter fence shall meet the following requirements: Fence material must be New Zealand style deer fence or equivalent; Total height of fence must be a minimum of 10 feet; Minimum 12.5 gauge high tensile wire must be used; Posts must be metal 'T'-posts, treated 4 X 4 posts, 6 inch treated round post or equivalent; Corner posts must be properly braced and installed; Posts must be spaced at 20 feet maximum for T-post or 30 feet maximum for rigid post; Brace posts must be buried at least 4 feet in rocky soil and 6 feet in sandy soil or concrete must be used to provide equal stability; Line posts must be buried to 3 feet; Rigid posts must be set at lowest points of dips and on crowns or humps; Trees or other structures that could threaten the fence must be removed or fencing must be constructed so as to prevent the breach of the fence from the fall of a tree or structure; Gates must be of sufficient strength and construction with no gaps; Gates must have functional locks; Fencing must be properly attached to post; Bottom strand of fence must be at ground level and reinforced; Water courses, gullies, ditches, etc. must be properly fenced to prevent escape. [The Director of the West Virginia Division of Natural Resources may issue exceptions to these fencing requirements after reviewing facilities and on a case by case basis.]
- The minimum size for captive Cervid facilities shall be 5,000 square feet for one animal. The enclosure size shall be increased by 25% for each additional animal. Stocking density must allow for ground cover during all seasons.
- The facility shall provide appropriate shelter and bedding material for the captive animals that protects them from inclement weather.
- Fresh drinking water shall be provided daily.
- Captive animals shall be fed daily. Food must be wholesome, palatable, free from contamination and of sufficient quantity and nutritive value to maintain all animals in good health. No person shall feed any Cervid with any material that contains protein derived from any mammalian tissues.
- Where necessary, fecal and food waste shall be removed from the enclosure daily and stored or disposed of in a manner that prevents noxious odors or insect pests. Food and water containers shall be kept clean. Hay, straw or other bedding material must be replaced as needed. All waste must be disposed of in a legal manner.

Inventory and Record Keeping

- The captive Cervid facility shall abide by all the requirements for record keeping and marking of animals as set forth in DNR Legislative Rule 58 CSR 63.
- Each captive Cervid shall be marked with a unique tattoo in the ear, a metal ear tag with a unique identification number affixed to the ear and a unique marker visible from 50 yards.

- An accurate and current inventory of all the animals in the captive Cervid herd will be maintained on forms provided by the DNR. These records shall indicate all wildlife acquisitions, sales, possession transfers, escapes, births, mortalities and appropriate permits. Records shall show names, addresses, dates, sales documentation, tag numbers, and origins or destinations of all transactions concerning captive Cervids.
- A copy of the records of all acquisitions, sales or possession transfers shall be forwarded to the District LES Captain within 15 days of the transaction.

Receiving/Transferring Captive Cervids

- The application for a licensee to receive and/or transfer captive Cervids shall be made on forms provided by the DNR.
- The completed application shall be forwarded to the Director for review by the Law Enforcement Section (LES) and Wildlife Resources Section (WRS).
- Only animals coming from a captive Cervid herd within the state with an ongoing and appropriate CWD surveillance record for at least 24 months may be received by the new captive Cervid facility.
- No animals may be received by the new captive Cervid facility that have originated or been housed with animals originating from any state that has a confirmed CWD or Tuberculosis (TB) positive Cervid in the last 60 months.
- All Cervids sold or transferred from licensed captive Cervid facility shall be tested by a licensed veterinarian for TB, Brucellosis and any future approved test for CWD prior to movement.
- Each animal received by the new captive Cervid facility shall be marked with three unique identifiers (i.e., ear tattoo, metal tag in ear and one visible from at least 50 yards).
- The movement and/or transfer of any such captive animals into or out of a new captive Cervid facility shall require the written approval of the Director.

Escapes from Facilities

- Every effort will be made to prevent escapes of animals from captive Cervid facilities. All escapes shall be reported within 24 hours to the District LES Captain.
- Any animal that escapes from a captive Cervid facility may be killed by DNR personnel. If the animal is killed, appropriate samples shall be collected from the animal by DNR personnel, and these samples shall be submitted for testing for CWD and other transmissible diseases. All costs for killing the escaped animal, collecting the samples and testing shall be the responsibility of the licensee.

- Under no circumstances shall captive Cervids be intentionally released into the wild.

Periodic Inspections

- The captive Cervid facility, records and animals shall be periodically inspected by an authorized representative of the Director, on a case by case basis, to assure compliance with all requirements mandated by statute, rule or terms and conditions of the license.

Disease Surveillance and Testing

- Captive Cervid facilities shall abide by all the requirements for disease surveillance and testing as set forth in DNR Legislative Rule 58 CSR 63. The Director shall require the licensee to submit appropriate samples for testing and enroll in federal government national disease prevention programs such as, but not limited to, tuberculosis free certification and CWD free certification, as a term and condition of the wildlife acquisition, sale, or possession transfer to protect public health and the welfare of native wildlife.
- Any captive Cervids over six months of age that die and/or are slaughtered shall be reported to the District LES Captain within 24 hours. If instructed to do so by the District WRS Game Biologist or WRS Deer Project Leader, the licensee shall submit the animals to a qualified veterinarian to obtain appropriate samples for CWD testing. All costs for obtaining appropriate samples for CWD testing and surveillance shall be the responsibility of the licensee unless federal funds become available.
- Appropriate samples from all captive Cervids over sixteen months of age that die and/or are slaughtered must be submitted for CWD testing to a USDA approved laboratory. Testing for other transmissible diseases may also be required. All costs for this disease testing and surveillance shall be the responsibility of the licensee unless federal funds become available.
- It shall be the licensee's responsibility to ensure that the DNR is notified in writing of the CWD test results within five days of completing the test. Should any sample test positive for CWD, the licensee shall immediately notify, by the most expedient means possible, the District LES Captain, District WRS Game Biologist and WRS Deer Project Leader of the test results.
- Should any animal test positive for CWD within the captive Cervid facility, the facility shall be immediately quarantined and the captive herd shall be immediately depopulated under guidelines established collaboratively by the DNR, USDA and West Virginia Department of Agriculture. All costs associated with the quarantine and depopulation shall be the responsibility of the licensee unless federal funds become available. In addition, the DNR will immediately initiate active and aggressive CWD surveillance of wild white-tailed deer outside the infected captive Cervid facility. All costs associated with the surveillance of wild white-tailed deer outside the captive Cervid facility shall be the responsibility of the licensee unless federal funds become available.

- Captive Cervid facilities shall be required to enroll their herds in the USDA-APHIS CWD herd certification program, when the program becomes effective. In addition, prior to approval for such facility, an approved herd health plan shall be prepared by the licensee which outlines prevention and eradication measures to control CWD, TB and other transmissible diseases that pose a threats to free ranging wildlife, domestic animals and humans.

Other Conditions

- The DNR is using an adaptive management approach on issues relating to CWD. Should other actions become necessary to prevent or control the spread of CWD into or within the State of West Virginia, additional conditions may be applied to the captive Cervid facility license. The licensee shall be required to abide by all such additional conditions.