

Form #3

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2005 JUL 29 P 3: 35

~~OFFICE WEST VIRGINIA~~
~~SECRETARY OF STATE~~

Authorized Signature



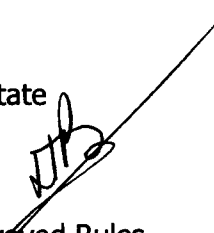
L. Thomas Bulla, Secretary
Department of Commerce
State Capitol
Building 6, Room 525
Charleston, WV 25305-0311

State of West Virginia
Joe Manchin III
Governor

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MEMORANDUM

TO: Betty Ireland, Secretary of State

FROM: L. Thomas Bulla, Secretary 

SUBJECT: Approval to File Agency Approved Rules
Division of Natural Resources Series 58

DATE: July 28, 2005

Permission is hereby granted for the Division of Natural Resources to file the following agency approved rules:

58CSR12	Whitewater Rule
58CSR25	Boating Rule
58CSR31	Rules Governing Public Use of West Virginia State Parks, State Forests, and State Wildlife Management Areas under the Division of Natural Resources
58CSR46	Rule Defining the Terms to be Used Concerning All Hunting and Fishing Rules
58CSR52	Wild Boar Hunting
58CSR58	Special Waterfowl Hunting Rule
58CSR64	Miscellaneous Permits and Licenses
58CSR65	Falconry Rules
58CSR67	Lifetime Hunting, Trapping and Fishing Licenses Rules

If you have any questions, please feel free to contact me. Thank you for your assistance in this matter.

LTB:ffh

cc: Brian Helmick, Deputy Secretary
Frank Jezioro, Director

QUESTIONNAIRE

(Please include a copy of this form with each filing of your rule: Notice of Public Hearing or Comment Period; Proposed Rule, and if needed, Emergency and Modified Rule.)

DATE: 7/29/05

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency Name, Address & Phone No.) Curtis L Taylor
Division of Natural Resources
Wildlife Resources Section

1900 Kanawha Blvd., E.
Charleston, WV 25305

LEGISLATIVE RULE TITLE: Miscellaneous Permits and Licenses

1. Authorizing statute(s) citation 20-1-7(20) and 20-1-7(30)

2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:
June 28, 2005

b. What other notice, including advertising, did you give of the hearing?
News Release to state papers, web site, public meetings and outdoor writers columns

c. Date of Public Hearing(s) *or* Public Comment Period ended:
July 28, 2005

d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.

Attached X No comments received

- e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing: (be exact)

July 29, 2005

- f. Name, title, address and phone/fax/e-mail numbers of agency person(s) to receive all written correspondence regarding this rule: (Please type)

Curtis L. Taylor
Division of Natural Resources
Wildlife Resources Section
1900 Kanawha Blvd., E.
Capitol Complex, Bldg. 3, Room 842
Charleston, WV 25305

- g. **IF DIFFERENT FROM ITEM 'f'**, please give Name, title, address and phone number(s) of agency person(s) who wrote and/or has responsibility for the contents of this rule: (Please type)

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

- a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

b. Date of hearing or comment period:

c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

d. Attach findings and determinations and reasons:

Attached

**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	<i>2006</i> Increase/Decrease (use "-")	<i>2007</i> 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: 7-29-05

Signature of Agency Head or Authorized Representative

Brian Helms

FILED

TITLE 58
LEGISLATIVE RULE
BUREAU OF COMMERCE
DIVISION OF NATURAL RESOURCES
OFFICE WEST VIRGINIA
SECRETARY OF STATE

2005 JUL 29 P 3:35

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~~ 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. Provided that the Director may issue exceptions to the required distance between the fences on a case by case basis to accommodate vegetation control. The distance between the fences must be the minimum practical distance required to accommodate mechanical removal of vegetation. For these exemptions the Director will require mitigating measure to keep cervids from between the fences. 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 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. The Director may exempt cervids currently in existing Commercial Shooting Preserves from this tagging requirement provided that the licensee will provide an annual minimum of 30 cervids or 10 percent of the cervids, whichever is less in the enclosure for biological sampling and provided that all cervids that are handled or added to the enclosure shall be tagged and inventoried. This exemption shall be reviewed and may be revoked after 5 years from date of filing. This does not abrogate requirements of providing cervids for biological sampling described elsewhere in these rules.

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 a captive Cervid facility licensed after August 9, 2005. 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. Based upon this review the Director has the ability to approve or deny 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 hoofed 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.e.~~ 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.

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

- 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.



DIVISION OF NATURAL RESOURCES

**Wildlife Resources Section
Capitol Complex, Building 3, Room 812
1900 Kanawha Boulevard, East
Charleston WV 25305-0664
Telephone (304) 558-2771
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TDD (304) 1-800-354-6087**

**Joe Manchin III
Governor**

**Frank Jezioro
Director**

July 28, 2005

Penny Miller
Michael Miller
Joe Greathouse
Oglebay
Wheeling, WV 26003

Dear Ms. Miller & Messrs. Miller and Greathouse:

Thank you for providing comments on Legislative Rule 58-CSR64 – Miscellaneous Permits and Licenses recently filed by the West Virginia Division of Natural Resources that establishes certain terms and conditions for all captive cervid facilities in the state (e.g., inventory, record keeping and marking of animals, minimum standards for captive cervid facilities including fence design and construction, disease testing and monitoring requirements for animals including testing for Chronic Wasting Disease (CWD) and other transmissible diseases, etc.). This rule has been prepared to address the emerging and ongoing risks associated with captive cervid facilities and the potential for exposing the state's wild deer population to CWD infection.

The West Virginia Division of Natural Resources welcomes comments from the public on its various management programs and appreciates your interest in this important issue. We are pleased to receive your comments as they relate to this rule, and we will take these comments under advisement and consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Curtis I. Taylor".

Curtis I. Taylor, Chief
Wildlife Resources Section

CIT/s

cc: Billie Shearer



Wheeling, WV 26003
304-243-4030
www.oglebay-resort.com

July 25, 2005



Curtis Taylor, Chief
DNR, Wildlife Resources Division
1900 Kanawha Blvd, E
Capitol Complex, Bldg 3 Room 842
Charleston, WV 25305

Dear Mr. Curtis,

We received the Legislative Rule 58CSR63 the week of June 24th, 2005. We appreciate WV DNR efforts to protect the cervid population from Chronic Wasting Disease (CWD), and we deeply appreciate the hand delivery of the ruling. We will *enthusiastically* comply with the CWD testing protocol, adding it to the comprehensive necropsy and histopathology procedures we already do on any zoo animal that dies.

We share the WV DNR's concerns about emerging wildlife diseases, both for the potential impact on the state's wildlife, and for our own zoo animals, many of which are rare or endangered. We also share your concerns about the increase in exotic and wild animal ownership by lay people throughout our state.

However, the proposed amendments to the Series 64 rules have the potential to impact the Oglebay Good Zoo's education and conservation missions. These issues are only germane to a public zoological park and were possibly not considered when the DNR drafted regulations to regulate 5 common cervid species found in deer farms, rather than the 45 cervid species that will be affected. Below are some key points we would like the DNR to consider when developing the final regulations.

Our background and expertise:

- More than 2,000 USDA licensed zoos exist in the U.S of which just 214 are accredited by the American Zoo and Aquarium Association (AZA). The Good Zoo has always been the only AZA accredited zoo in the state of West Virginia.
- The Good Zoo is regulated and permitted by the WV DNR, USDA/APHIS, the AZA, the US Fish and Wildlife Service, the Ohio County Health Department, the Center for Disease Control, the US Department of Health and Human Services, the US Department of the Interior, and the Food and Drug Administration. All of these agencies inspect both our premises and our record systems on a regular basis. We receive far greater oversight than any other facility holding cervids in West Virginia.
- The Good Zoo assists local wildlife and public health officials in the surveillance of emerging wildlife diseases. On our own initiative, and in conjunction with Dr. William Mercer of the Ohio County Health Department, we do testing on wild animals brought in for rehabilitation. We discovered a case of rabies

in a wild bat and West Nile virus in several wild raptors—the first cases in the county that calendar year. We also helped the state veterinarian monitor an epizootic of raccoon distemper in the region.

- The Good Zoo has a consulting veterinarian with more than 30 years of exotic animal experience, on grounds at least once a week.
- The Good Zoo has a 3,000 sq ft state of the art Veterinary Hospital and Quarantine Center with negative pressure, hepa filtered quarantine rooms where all new zoo animals are quarantined for a minimum of 30 days. ALL zoo animals that die, be it a tiny dart frog, a fish, snake or bison, are necropsied and appropriate histopathology and other tests are conducted by outside accredited labs.
- All 7 full time animal care staff have a minimum 4 year college degree in wildlife management, zoology, or biology; the zoo's curator has a master's degree. The zoo director has more than 33 years of experience with zoo animals.
- An average of 150,000 people visit the Good Zoo each year. We return more than \$75,000 annually in consumer sales taxes to the state of West Virginia.

How the proposed regulations will affect the Good Zoo:

- The cost of adding two feet to the zoo's 8' high, 7,600 linear ft perimeter fence is estimated conservatively at \$53,000.

The zoo intends to phase out white tailed deer as soon as possible. Only 5 white tailed deer remain in the zoo. The white tailed deer the zoo exhibited were reluctantly accepted from local WV DNR conservation officers in our attempt to assist them with public relations problems in dealing with "orphaned" fawns the DNR officers had to deal with from the general public. At no time have we ever purchased, bred or sold white tailed deer.

The Good Zoo wishes to expand its education and conservation missions by possibly adding other cervid species to the collection in the future. Possible species include reindeer, pudu, muntjac, moose, white-lipped deer, or tufted deer. None of these species has ever tested positive for CWD, nor are they in the "high risk" category shared by white tailed deer, mule deer, and elk. The reindeer, and the diminutive 16" tall pudu and 30" tall muntjac are not capable of jumping even an 8' tall fence.

The proposed unnecessary perimeter fence height of 10' would make it economically not feasible for the Good Zoo to participate in any captive breeding conservation project, or public education and exhibition of cervids. Therefore, we respectfully request that perimeter and enclosure fence heights be cervid species specific based on the behavior, biology and actual jumping ability of the species, and on cervid exhibit standards in AZA accredited zoos.

- We request the ability to import cervids from other AZA accredited zoos that have a USDA "CWD accredited free herd" status. We will not be requesting to import elk, white tailed deer, mule deer, or red deer. The cervids we may wish to exhibit and perhaps breed are only available from other AZA zoos outside the state of W.V.
- We request clarification of 7.4.13 as to the disposal of waste materials. We suggest that incineration or burial at engineered landfills meet that requirement, as those methods are already approved by states handling CWD positive carcasses.¹

- **We request that minimum sizes for cervid facilities be again based on the adult size of the cervid species housed**, and suggest that the space requirements (and again, jumping distances) are quite different for a 1,500 lb elk as compared to a 12 lb, 16" tall adult pudu. The AZA is currently drafting minimum space requirements for zoo animals, and we suggest those standards be referenced.
- **We request clarification of 7.4.16** and request that if a wild white tailed deer should ever, somehow enter the zoo grounds, it could be humanely euthanized by zoo staff and tested at zoo expense for CWD and other transmissible diseases, with a full report passed on to the WV DNR game biologist.
- **We request first-class mail notification to all WV DNR permittees, regarding any emergency rulings and any proposed changes to WV DNR rules.** We always strive for full compliance to all state regulations, but we can only comply with those rules of which we are aware. We have accidentally stumbled on web-posted WV DNR emergency rulings and draft legislation that would have placed us in a non-compliant situation quite involuntarily.
- **We request that as these and future cervid regulations are drafted, the DNR request input from, and give consideration for WV's AZA accredited zoo(s) and the possible 45 cervid species affected,** rather than just the 5 target deer species commonly kept on private deer farms.
- **We request the chance to provide tempered, intelligent and professional discourse from the zoo profession.** We have access to some of the brightest minds in cervid research, husbandry and veterinary medicine. The entire AZA community is aggressively working to protect the health and long term conservation of captive and wild cervids literally around the globe. We are not opposed to, but in fact embrace new regulations and guidelines to address the emerging diseases that threaten our respective concerns. Our comments will not be based on short term, economic issues, but on sound, biology-based strategies to conserve cervids long term. We applaud your efforts to that goal, and hope you will consider us as working partners in that mission.

Sincerely,


Penny Miller
Zoo Director
304-243-4027


Michael J. Miller, DVM
consulting veterinarian
304-336-7509


Joe Greathouse
Zoo Curator
304-243-4029

¹ Guidelines for the Chronic Wasting Disease (CWD) Surveillance in Captive Cervids in Zoos. American Association of Zoo Veterinarians and the American Zoo and Aquarium Association Animal Health Committee 2003

Appendix VI

Guidelines for Chronic Wasting Disease (CWD) Surveillance in Captive Cervids In Zoos

American Association of Zoo Veterinarians
and
American Zoo and Aquarium Association Animal Health Committee
2003

Executive Summary:

In response to the concern for introduction of CWD, and the management and regulatory implications for zoological facilities, a set of guidelines have been drafted for AZA-accredited institutions by an ad hoc working group of the American Association of Zoo Veterinarian's Infectious Disease Committee in conjunction with the AZA Animal Health Committee.

The objectives of these guidelines are to: (1) provide AZA-accredited institutions with information regarding CWD; (2) develop recommendations for transport of susceptible animals between institutions (both AZA-accredited and non-accredited); (3) develop a protocol for CWD surveillance in AZA-accredited institutions that parallels those plan being formulated by national regulatory authorities at this time; and (4) recommend risk management strategies for dealing with suspected or confirmed CWD cases in AZA-accredited institutions should they occur.

Although every individual institution needs to establish their own acceptable level of risk with regard to this issue, the implementation of these guidelines will show state and federal regulatory agencies dealing with AZA-accredited institutions that our community is both informed and proactive with regard to this issue. As USDA and state regulatory agencies develop mandatory programs for surveillance and eradication of CWD and cervid transport, these guidelines may require modification to comply with regulatory requirements for each individual institution. It is strongly encouraged that senior zoo staff establish a relationship with regulatory personnel responsible for monitoring CWD programs in their area in order to keep abreast of regulations being developed at both the State and Federal levels.

Objective 1: An introduction to Transmissible Spongiform Encephalopathies and Chronic Wasting Disease

A full review of the Transmissible Spongiform Encephalopathies (TSE) was recently published in both the AZA Communique and the Journal of Zoo and Wildlife Medicine.³ The causative agents of TSE's are described as unconventional proteinaceous infectious particles, or prions. Prions have yet to be fully characterized but it is thought that they are abnormal proteins that are capable of changing normal cellular prion proteins into abnormal shapes. These abnormal shapes cause conformational changes that result in changes in many of the properties of these proteins including: increased resistance to heat, pH and partial resistance to proteases. Large-scale improper folding of protein sheets in tissues of the central nervous system is partially responsible for neurological clinical signs in all affected species. This improper folding, when it occurs in sufficient quantities, results in the formation of holes in brain tissue that gives it a spongy appearance under the microscope – hence the name spongiform encephalopathy.

Transmissible spongiform encephalopathies consist of numerous diseases in man and animals.³ Those TSE's of concern to zoo and wildlife practitioners include scrapie (sheep and goats), bovine spongiform encephalopathy (BSE), transmissible mink encephalopathy (TME), feline spongiform encephalopathy (FSE), and chronic wasting disease (CWD) in deer (*Odocoileus* sp.) and elk (*Cervus elaphus nelsoni*). Kuru, classical Creutzfeld-Jakob disease (CJD), Gerstmann-Straussler syndrome (GSS), fatal familial insomnia, and variant Creutzfeld-Jakob disease (vCJD) are TSEs that affect humans. All are characterized by a long incubation period, up to forty years

in kuru, without the presence of clinical symptoms. The clinical phase results in a progressive degenerative neuropathy without the presence of an identifiable inflammatory process or specific signs of chronic viral infection. In addition, no virus-like or other micro-organism-like structure is present in the brains or CNS fluid of infected patients. All infections result in death in the species in which they occur. There is currently no vaccine or treatment for any of these diseases.

Chronic Wasting Disease (CWD) is a progressive, debilitating and invariably fatal disease of deer and elk. It was first recognized in 1967 and clinical signs include progressive weight loss, behavior changes, and listlessness. It is classified as a transmissible spongiform encephalopathy (TSE) or "prion" disease. The disease has been found in greatest numbers among free-ranging deer and elk in north central Colorado and southeastern Wyoming; but cases have been found in free-ranging deer and/or elk in Nebraska, South Dakota, New Mexico, Utah, Illinois, and Wisconsin. In addition, CWD has been diagnosed in farmed elk and/or deer herds in several states including Colorado, Kansas, Minnesota, Montana, Nebraska, Oklahoma, South Dakota, and Wisconsin. In Canada, CWD has been identified in both free-ranging deer and privately owned elk in Saskatchewan, and farmed elk in Alberta.

CWD has affected mule deer (*Odocoileus hemionus*), white-tailed deer (*O. virginianus*), and elk (*Cervus elaphus nelsoni*). Other ruminants housed near infected cervids have not been naturally infected. It is not known whether other cervid species (North American or exotic) are susceptible to infection. Transmission between animals is most likely to occur through animal-to-animal contact and/or contamination of feed or water sources with saliva, urine or feces from a diseased animal. The route of transmission has not been definitively determined. It does not appear that CWD is transmitted to other ruminant species in contact with infected cervids. Diagnosis is confirmed by immunohistochemical staining of the obex portion of the brainstem after death. Recently, three ELISA-based CWD diagnostic test kits have been approved by the USDA; these tests can be applied to lymph node, and are licensed for use in deer and elk. Although these will be used for surveillance of free-ranging cervids, they are not currently approved for use in captive cervid regulatory programs.

Current information indicates that CWD does not cause illness in people. The known prion diseases of humans and domestic animals appear to be caused by prions unrelated to CWD. It is unknown whether consumption of infected tissue may present a risk. Risk avoidance recommendations for those with close contact to susceptible animals (hunters, wildlife biologists, pathologists) include:

- Do not consume meat from any deer or elk that looks or acts sick.
- Wear gloves when field dressing/performing necropsy on carcasses and wash hands and instruments thoroughly when complete.
- Do not consume brain, spinal cord, eyes, spleen, tonsils, and lymph nodes from deer and elk.

The USDA and some states have a voluntary herd-certified status program. A federal program for surveillance and eradication of CWD is currently being developed by the USDA. Several states have placed moratoria on imports and transport of cervids at the time of this writing. Check with your State Veterinarian for current information.

Objective 2: Recommendations for acquiring and positioning susceptible animals in AZA-accredited facilities

Introduction of CWD into a zoological institution may occur through:

- Acquisition of infected asymptomatic animals;
- Unintended contact between susceptible collection cervids and free-ranging cervids;
- Contamination of the exhibit/facility, feed, or bedding.

Regulations for interstate transport of cervids are currently being developed by the USDA and

many states. Due to the rapid changes in state and federal regulations pertaining to cervid movement, it is critical that a designated staff member obtain current information from the appropriate regulatory agencies. Jurisdiction over captive cervids varies between states but is assigned to either the State's Department of Agriculture (DOA), or equivalent, and/or Department of Fish and Game, or equivalent. The currently proposed USDA program will be designed to restrict interstate movement in order to provide basic minimum standards for the federal programs (Plan for Assisting State, Federal Agencies, and Tribes in Managing Chronic Wasting Disease in Wild and Captive Cervids, USDA-APHIS, June 26, 2002). State regulatory programs may implement additional controls if deemed necessary.

We recommend that the following guidelines and definitions be applied to cervid and other ungulate species:

- **"high risk" species** – known CWD susceptible cervid species (*O. hemionus*, *O. virginianus*, *C. elaphus nelsoni*, and subspecies);
- **"at risk" species** – other cervid species that have unknown susceptibility to CWD;
- **"low/no risk" species** – non-cervid ungulates.

Movement of cervids from a non-accredited source into an AZA-accredited institution.

Source area – All incoming cervids ("high" and "at risk" species) should originate from facilities in non-endemic areas. This includes cervids originating from the wild. These areas may change as increased surveillance occurs.

Source history – Obtain "high risk" animals from sources that have met the criteria for a "CWD accredited-free herd" (surveillance program in place without detection of CWD for a minimum of 5 years). "At risk" cervids and other ungulates should be acquired from facilities without a history of CWD or undiagnosed cases of wasting or neurologic disease. State regulations may only allow importation or intrastate transport of cervids from herds with surveillance data; therefore, this restriction may differ between states. Cervids that are obtained from free-ranging herds must be from non-endemic areas and/or less than 12 months of age.

Movement between AZA-accredited institutions.

Documentation of a disease surveillance program (based on the AZA requirements for medical records and necropsies) and provisions to exclude wildlife may suffice to meet the same criteria established for "CWD accredited free herds" of farmed cervids. Discussion with regulatory agencies may allow AZA institutions to transfer cervids between institutions (similar to the exemption for TB testing of cervids transferred between AZA facilities). As the federal program is developed, AAZV will continue to work with the USDA on behalf of AZA member institutions. However, it is expected that program species (*Odocoileus hemionus*, *O. virginianus*, *Cervus elaphus nelsoni*) will be required to meet all federal requirements, regardless of source.

Movement from an AZA-accredited institution to a non-accredited facility.

Only those AZA-accredited institutions that have documentation meeting standards for a "CWD accredited free herd" should ship cervids to non-accredited facilities. Receiving facilities should meet all institutional and AZA requirements for disposition.

Summary of general management recommendations for zoos:

- Obtain a herd history of source of captive elk or deer that may be acquired for the collection.
- Sources of captive elk or deer should ideally be from another AZA-accredited institution or herd that is certified as CWD-free.
- Minimize potential contact between collection and wild cervids.

- Submit brain for CWD surveillance (National Veterinary Services Laboratory - NVSL) from any cervid that dies or is euthanized over the age of 12 months.
- Check with state veterinarian's office regarding current restrictions in movement of cervids.

Objective 3: Recommended surveillance plan for AZA-accredited institutions

Herd Certification:

Herd "CWD-free" certification programs will vary between states, and may be more stringent than the USDA federal program. Currently, there is no officially approved antemortem (performed on living animal) test for CWD. Diagnosis is based on histopathologic changes in brain tissue using immunohistochemical (IHC) staining of the obex (brainstem). There are approximately 26 veterinary diagnostic laboratories certified by USDA to perform CWD testing (contact your state veterinarian for details). In 2003, the USDA approved three ELISA-based CWD diagnostic test kits (Bio-Rad, VMRD, IDEXX). Although these tests are incorporated into surveillance of free-ranging cervids, they are not currently approved for captive cervid regulatory programs. In order to align with planned federal certification status for captive cervids, AZA institutions should maintain cervid herds for a minimum of 5 years with no evidence of CWD on necropsy using approved testing methods.

The national surveillance plan for farmed cervids (USDA) includes mandatory death reporting and CWD testing (by a certified laboratory) of all animals, except calves, that are slaughtered or die on the premises. It is not known at this time whether these plans will be applied to zoos in a regulatory fashion. Record keeping requirements for AZA accreditation should be adequate to meet inventory requirements; however, additional diagnostic testing may need to be implemented.

Experimental studies have indicated that IHC staining of lymphoid tissue obtained via tonsil biopsy may provide an antemortem test for CWD.² It appears that this may be useful to detect early infection in deer but may not be sensitive in elk, due to differences in CWD pathogenesis in this species. Therefore, lymphoid tissue (especially from tonsils) should be considered for testing from "high risk" or "at risk" species to contribute to the database. Details of collection and submission procedures should be obtained directly from the designated laboratory.

Necropsy surveillance:

AZA accreditation standards require member institutions to perform necropsy examinations on all collection animals to determine the cause of death (see www.aza.org/accreditation). This does not always require removal and examination of the brain (specifically, the obex). It is strongly recommended that **all** zoo cervids over the age of 12 months that die or are euthanized should have the head (specifically, obex of the brain) submitted to NVSL, or a certified laboratory for CWD testing (see http://www.bah.state.mn.us/diseases/cwd/brain_removal.htm for specific instructions and diagrams). In addition, tonsil and retropharyngeal lymph nodes should be collected for possible future testing.

Management/Surveillance of Free-Ranging Cervids on Zoo Grounds

Free-ranging cervids pose a potential risk to zoo collection animals. Although the actual risk cannot be quantified at this time, it is real. Therefore, every effort should be made to exclude these animals from zoo grounds. Maintenance of appropriate wildlife exclusion methods such as perimeter fences should be used to minimize contact between wildlife and collection animals. Any free-ranging cervids that die or are euthanized around the zoo grounds or surrounding areas should be screened for CWD.

Objective 4: Risk management, response and control

USDA and State regulatory eradication programs:

The USDA began its CWD eradication program for farmed elk and deer herds in fiscal year 2003 (Plan for Assisting States, Federal Agencies, and Tribes in Managing Chronic Wasting Disease in Wild and Captive Cervids, USDA-APHIS, June 26, 2002). The National Park Service will continue its targeted surveillance and removal of cervids exhibiting clinical signs of CWD. The Department of the Interior will work with states in hunter surveillance programs. **Although enrollment of captive cervid herds is voluntary, herds that have program species (red deer, elk, mule deer, white-tailed deer) will not be permitted to move animals interstate if they are not certified.** If enrolled from initiation of the program, interstate transport will be permitted after the first year of surveillance if no cases of CWD have been detected. Herds that are enrolled at later dates will be required to meet the full 5-year surveillance period before moving animals interstate. Interstate and intrastate movement of non-program cervid species will be subject to state regulations. It is **strongly** recommended that all AZA institutions comply with voluntary requirements for CWD certification for any cervid herds in their collection, including non-program cervid species.

If an institution participates in a voluntary herd certification program, remember that CWD is a reportable disease and results of CWD positive cases will be communicated through a network of certified testing laboratories to the USDA. Therefore, cervids from AZA institutions that test positive will be reported by the testing laboratory. In addition, veterinarians at the specific institutions will be responsible for contacting the appropriate state agencies (as designated by the state; this could include the state veterinarian, department of fish and wildlife, board of animal health, etc.) should a positive be found. Those institutions with CWD positive cervids will fall under the jurisdiction of federal and state eradication programs; we recommend creating a relationship with your regulatory authorities now to enhance communication should a suspect or positive case be found.

Currently, the USDA defines a positive case of CWD as any animal found positive by IHC staining of appropriate tissues. Suspects include any animal from a "high risk" species with compatible clinical signs. "Trace back" and "trace forward" investigations would be conducted by regulatory personnel to determine source and possibly exposed animals. Based on documentation already present in AZA-accredited institutions, sources and dispositions of animals can be identified, including enclosures and animal contacts.

Options for herds with a positive case include depopulation or quarantine and surveillance. Depopulation may not be desirable in the case of genetically valuable individuals. However, quarantine would result in restrictions on movements of cervids to and from, and possibly within, the institution. Additional restrictions on use of the premises, surveillance and testing, and quarantine for at least 60 months from the last known case would be imposed on the institution. Individual institutions will need to determine the most appropriate plan with their regulatory agencies. Herd management plans are required for CWD positive and exposed herds. These plans include provisions for depopulation or quarantine, disposition of carcasses, decontamination, and future use of the premises (Plan for Assisting States, Federal Agencies, and Tribes in Managing Chronic Wasting Disease in Wild and Captive Cervids, USDA-APHIS, June 26, 2002).

Carcass disposal and decontamination

Carcass disposal of cervids may be regulated by state or local municipalities. Methods for handling CWD positive carcasses include incineration, tissue digestion, and burial using an engineered landfill (USAHA CWD Workshop, St. Louis, Missouri, October 22, 2002). Zoos are encouraged to discuss changes in current procedures with their local and state regulatory agencies. Wisconsin has developed a CWD carcass disposal risk assessment document that can

be accessed at their website (<http://www.dnr.state.wi.us/org/land/wildlife/whealth/issues/cwd/>). Guidelines for farm clean-up and disinfection have been created for use in Saskatchewan.

Based on other prion diseases and the link between contaminated pastures and CWD outbreaks, environmental contamination presents a major risk factor. Whether environments can be completely disinfected is questionable. Until effective cleaning and disinfection protocols can be identified, it is recommended that cervids should not be introduced to facilities or exhibits where CWD has occurred for at least 5 years. It is also critical that free-ranging cervids and other wildlife be excluded from these areas.

Other considerations

Other biosecurity measures that should be addressed for AZA-accredited institutions include staff education addressing zoonotic concerns, carcass disposal methods, and exhibit/facility contamination/decontamination. Currently, CWD has not been linked to human disease, despite recent media reports. AAZV has developed a fact sheet on CWD that outlines general precautions that should be followed to minimize risks (Table 1).

For Additional Information:

Chronic Wasting Disease Alliance
<http://www.cwd-info.org/>

APHIS Chronic Wasting Disease Information
<http://www.aphis.usda.gov/vs/nahps/cwd/>

State of WY
<http://gf.state.wy.us/services/education/cwd/index.asp>

State of CO
<http://wildlife.state.co.us/cwd/index.asp>

State of NE
<http://www.ngpc.state.ne.us/wildlife/guides/cwd/cwd.asp>

State of MN
<http://www.bah.state.mn.us/diseases/cwd/cwd.htm>

State of WI
<http://www.dnr.state.wi.us/org/land/wildlife/whealth/issues/cwd/>

APHIS: Scrapie Information
<http://www.aphis.usda.gov/vs/nahps/scrapie>

APHIS: Bovine Spongiform Encephalopathy Information
<http://www.aphis.usda.gov/lpa/issues/bse/bse.html>

UK Department for Environment Food and Rural Affairs: Bovine Spongiform Encephalopathy Information
<http://www.defra.gov.uk/animalh/bse/>

Acknowledgements: We (M. Miller, D. Travis) wish to thank AAZV, Disney's Animal Programs, and Lincoln Park Zoo for support to attend the USAHA meetings and for time to keep current on diseases of concern to the zoo veterinary community. We also wish to thank Drs. Robyn Barbiers, Julie Langenberg, Bob Cook, Wilbur Amand, Don Janssen,

and Bruce Rideout for their advice and comments on this manuscript. We especially appreciate the discussions with Drs. Michael Gilsdorf and Dean Goeldner (USDA NAHP) regarding CWD and zoos.

LITERATURE

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2/16/04



DIVISION OF NATURAL RESOURCES

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Joe Manchin III
Governor

Frank Jezioro
Director

July 28, 2005

Mr. Jarrod Wilson
Wilson's Whitetails
Rt. 4, Box 119D
Keyser, WV 26726

Dear Mr. Wilson:

Thank you for providing comments on Legislative Rule 58-CSR64 – Miscellaneous Permits and Licenses recently filed by the West Virginia Division of Natural Resources that establishes certain terms and conditions for all captive cervid facilities in the state (e.g., inventory, record keeping and marking of animals, minimum standards for captive cervid facilities including fence design and construction, disease testing and monitoring requirements for animals including testing for Chronic Wasting Disease (CWD) and other transmissible diseases, etc.). This rule has been prepared to address the emerging and ongoing risks associated with captive cervid facilities and the potential for exposing the state's wild deer population to CWD infection.

The West Virginia Division of Natural Resources welcomes comments from the public on its various management programs and appreciates your interest in this important issue. We are pleased to receive your comments as they relate to this rule, and we will take these comments under advisement and consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Curtis I. Taylor".

Curtis I. Taylor, Chief
Wildlife Resources Section

CIT/s

cc: Billie Shearer

Jarrold Wilson
Wilson's Whitetails
RT 4 Box 119D
Keyser, WV 26726

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



To Whom It May Concern:

This letter is in reference to rule 58 CSR 64 section 7.4 pertaining to Captive Cervid Facility License.

I have always wanted to do some kind of farming. I live in an area where you cannot have pastures due to not having flat land, so raising cattle and horses was out. Being an avid hunter; the love of whitetails has always been there. I had heard of people raising whitetails and did some research on this issue. I found that the land we have is perfect for raising these animals, as is much of the land in WV that cannot be used for much else. I discovered that there was a huge market for these animals and the money was very good. My wife and I discussed the possibilities of raising whitetail and we decided that with having two small children we wanted to find something that would be profitable to help support our family in these days where it takes both parents working. After lots of research on this business we decided to start our farm. We started our farm in 2000. We started making good money off of the fawns we sold and reinvested that money to expand our farm even more. In the past 2 years, we were able to sell our deer and trade with other farmers who have better genetics so that we could make even more money from our animals as they matured. Now that we finally have the genetics that are needed to get anywhere in this business, the DNR has come out with these "proposed" rules that we cannot function under. Being a state that is supporting small businesses, I do not understand the sudden urge to shut a small business down that could be very profitable. Furthermore: I do not understand the "emergency" for these rules. With these unreasonable proposed rules, my \$40,000+ I have invested in my farm will be lost not to

mention all the time and hard work I have spent into building fences etc. making our business successful.

I am on the Board of the West Virginia Deer Farmers Association. We have had meetings with Ed Hammrick, Frank Jezioro, Curtis Taylor, Paul Johansson, and Colonel Fields trying to work with them to come up with some rules and regulations for this state that everyone could live with. We have asked for over three years now for them to help us establish a CWD monitoring program. We received no help from them to get this started, so several of us took it upon ourselves to get information on surveillance programs from other states to use as a format for us to go by. We then came up with a plan of our own, and have had our cervids and facilities inspected by a state and USDA certified vet annually. If the DNR felt CWD was such an emergency, why have they not participated in this effort? In 7.4.21 of this rule, new facilities cannot buy from any cervid farmer that has not been CWD monitored in this state for less than 60 months. My question.....how can this be a rule when WV has no monitoring program?

The DNR has also told us that they do not know enough about CWD. They do not know exactly how CWD is spread. They just assume that it is from captive deer. Being that they are not concerned with the elk that are migrating in from Kentucky which have been brought in from the epidemic states, why all of the sudden do we have to worry about captive herds who have not been aloud to transport cervid's in from other states in the last 10 years?

7.4.18 states that we need to have our deer tattooed, a metal ear tag, and a permanent marker visible from 50 yards. In the meetings we had with the DNR we have explained to them that it is impossible to tattoo a fawns ear due to it being so thin, that being why they stated in the rule that it did not have to be done in animals under 6 months of age. Now this brings us to another risk issue. In order to tattoo our fawns after 6 months of age this requires us to tranquilize our deer just to put a tattoo in the ear that cannot even be seen once the hair grows back. The tattooing serves no purpose and when tranquilizing a deer there is always a risk of death. We do not tranquilize any animals unless there is a valid reason such as transporting or to administer medication. I feel that tattooing an animal is not a valid reason. We do tag our animals with cattle tags that are visible. We do this at 1 day old.

When I started my facility over 5 years ago we started with fawns. Research showed that having tame, calm does would help you be better able to handle your herd. We now have several does that are very tame and have found that this really does help keep your herd calm. In 7.4.24 it states that you cannot move or transfer a fawn under 6 months of age. This is where most of our sales come from. People want to have calm tame does in their herds. This rule will cut down 90% of my sales. It is also less expensive to purchase fawns than it is to buy mature animals that are ready to breed etc.

7.4.2 States that a public hearing must be conducted on a new facility. The general public does not have the knowledge to make informed decisions dealing with cervid farming or disease issues. The USDA or the Dept. of Ag should be the ones to decide if our facilities are safe-. They are well versed in health animal issues. Another problem with this is that you don't want anyone knowing where your animals reside. In these days of poaching, word gets out that you have a big buck; someone is going to try and get him. This is very costly to the breeder. Furthermore; I feel this is a violation of privacy.

7.4.4 states that every deer farmer will have to comply with the following rules by January 1, 2008: 7.4.7 which is double fencing and 7.4.8 that states raising fence height from 8' to 10'. This should be something that existing facilities should be grandfathered in under. This is very costly and will take a long time for most facilities, especially Hunting Preserves to accomplish. The other point is that the double fence is to be 3-6 feet away from the existing fence and be cleared. It is impossible to get a tractor in a 3-6 foot area, so keeping it clear would be quite difficult. To my knowledge, no other state has required double fencing.

7.4.20 requires us to have the directors' permission to transfer or receive deer. Current rule states that we contact the director within 15 days of movement. I feel that this is adequate. In cases such as selling fawns to be bottle fed, you would not have time to wait on written permission to transfer an animal. I do agree that the director needs to be aware of the transfer of every animal, but I feel that this can be done with appropriate forms such as the DNR has in place now.

7.4.31 states that all animals be tested when killed or slaughtered for various diseases. This would be very costly for hunting preserves. This could also

be costly for farmers who are culling does from their herds as well. Why should animals that have not died for an unknown reason have to be tested? When an animal is shot for pleasure or consumption, the cause of death is obvious.

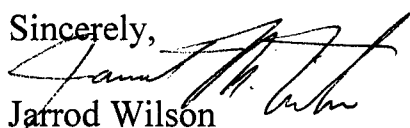
CWD has not been found to be spread to humans by viewing them in wildlife zoos. I do not understand why this rule states that cervids cannot be used for viewing purposes from individuals holding a Menagerie permit. Is the DNR able to keep their wild deer from being viewed by the public? Why is it ok for them to have their facility in French Creek? Are they taking all the "necessary precautions" in their facility?

Deer farmers do not argue with anything pertaining to herd health. We do not want any sick animals. If we lose animals this is costly to us. Unlike the DNR, we are able to keep a close eye on our cervids. We are able to get medicine into them if they look sick at all. Most of us have vets that are willing to work with us and help us out when we need it. Our animals are wormed often, and given preventive medication as well. We are able to rotate our pens and lime them heavily to help prevent disease. We have also taken it upon ourselves to have our animals tested for CWD if we should have one die. This is not required by the DNR, this is something that we do for ourselves. Again, we do not want any sickness in our herd.

Herd health seems to be the biggest "emergency" issue in this ruling. Why then are we not regulated under the Dept. of Agriculture who deal with herd health issues in numerous animals such as BSE "mad cow disease" and Scrapies in sheep?

Thank you for taking the time to read these comments. I hope that you can see "our" side of things as well. We are all willing to work with the DNR if given the chance, but they do not seem willing to work with us at all. Maybe this is where the Dept. of Agriculture comes in.

Sincerely,



Jarrod Wilson

Wilson's Whitetails



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July 28, 2005

Mr. Steve Laughlin, President
Whitetail Deer Farmers of Ohio
9025 Bachelor Rd., NW
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Dear Mr. Laughlin:

Thank you for providing comments on Legislative Rule 58-CSR64 – Miscellaneous Permits and Licenses recently filed by the West Virginia Division of Natural Resources that establishes certain terms and conditions for all captive cervid facilities in the state (e.g., inventory, record keeping and marking of animals, minimum standards for captive cervid facilities including fence design and construction, disease testing and monitoring requirements for animals including testing for Chronic Wasting Disease (CWD) and other transmissible diseases, etc.). This rule has been prepared to address the emerging and ongoing risks associated with captive cervid facilities and the potential for exposing the state's wild deer population to CWD infection.

The West Virginia Division of Natural Resources welcomes comments from the public on its various management programs and appreciates your interest in this important issue. We are pleased to receive your comments as they relate to this rule, and we will take these comments under advisement and consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Curtis I. Taylor".

Curtis I. Taylor, Chief
Wildlife Resources Section

CIT/s

cc: Billie Shearer

WHITETAIL DEER FARMERS OF OHIO

Steve Laughlin, President
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Magnolia, OH 44643
330-86-5421

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



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 than 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



DIVISION OF NATURAL RESOURCES

**Wildlife Resources Section
Capitol Complex, Building 3, Room 812
1900 Kanawha Boulevard, East
Charleston WV 25305-0664
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TDD (304) 1-800-354-6087**

**Joe Manchin III
Governor**

**Frank Jezioro
Director**

July 28, 2005

Mr. Duke Layfield
PO Box 364
Buckhannon, WV 26201-0364

Dear Mr. Layfield:

Thank you for providing comments on Legislative Rule 58-CSR64 – Miscellaneous Permits and Licenses recently filed by the West Virginia Division of Natural Resources that establishes certain terms and conditions for all captive cervid facilities in the state (e.g., inventory, record keeping and marking of animals, minimum standards for captive cervid facilities including fence design and construction, disease testing and monitoring requirements for animals including testing for Chronic Wasting Disease (CWD) and other transmissible diseases, etc.). This rule has been prepared to address the emerging and ongoing risks associated with captive cervid facilities and the potential for exposing the state's wild deer population to CWD infection.

The West Virginia Division of Natural Resources welcomes comments from the public on its various management programs and appreciates your interest in this important issue. We are pleased to receive your comments as they relate to this rule, and we will take these comments under advisement and consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Curtis I. Taylor".

Curtis I. Taylor, Chief
Wildlife Resources Section

CIT/s

cc: Billie Shearer

CURTIS I. TAYLOR, CHIEF
WILDLIFE RESOURCES SECTION



DEAR MR. TAYLOR,

THE PROPOSED RULE CHANGES FOR CERVID GAME FARMS ARE ALL BUT IMPOSSIBLE FOR ME TO COMPLY WITH. I HAVE 7 PET DEER THAT I KEEP FOR MY PERSONAL ENJOYMENT. I HAVEN'T MOVED, SOLD OR PURCHASED A DEER SINCE 2001 AND DON'T INTEND TO. TYPAR ON MY PRESENT 8' FENCE WOULD PREVENT NOSE TO NOSE CONTACT JUST AS WELL AS A SECOND FENCE. AN EAR TAG IS NOT MADE THAT CAN BE READ FROM 50 YDS AND IF I WOULD PUT ONE THAT LARGE ON A NEWBORN FAWN IT WOULD NOT BE ABLE TO LIFT ITS HEAD! NO DEER CAN JUMP A 8' FENCE SO WHY A 10'? IF YOU TATTOOED A FAWN'S EAR IT WOULD NOT BE LEGIBLE AS IT BECAME ADULT.

ALL DEER FARMERS ARE JUST AS CONCERNED ABOUT CWD AS THE DNR. THERE IS ALREADY A BAN ON IMPORTATION OF DEER. DEER FARMERS WOULD NOT RISK THEIR LIFE SAVINGS THAT THEY HAVE INVESTED IN THEIR DEER FARM BY BRINGING IN CWD. THE DNR SHOULD USE DEER FARMS AS A MEANS OF MONITORING ALL DEER HEALTH. CWD COULD VERY WELL BE IN WV NOW. EVEN THE DNR HAS IMPORTED DEER INTO THE STATE FROM ANOTHER STATE. THOSE DEER COULD HAVE BEEN INFECTED WITH

CWD AND IT IS POSSIBLE THAT CWD HAS BEEN IN THE WILD FOREVER, IT WOULD MAKE SENSE TO USE DEER FARMS TO MONITOR FOR CWD IN THE STATE. IF YOU PUT ALL THE DEER FARMS OUT OF BUSINESS, THE DNR WILL LOSE ITS BEST MONITORING TOOL THAT IT HAS. YOU ARE FAR LESS LIKELY TO SEE A DEER IN THE WILD WITH CWD THAN YOU ARE IN A DEER FARM. PLEASE WORK WITH THE DEER FARMERS, NOT AGAINST THEM, FOR THEY ARE JUST AS CONCERNED ABOUT CWD AS THE DNR IS.

SINCERELY,
SM Duke Layfield

PO Box 364
BUCKHANNON, WV 26201
GAME FARM LIC. # D3-17-05-GF



DIVISION OF NATURAL RESOURCES

Wildlife Resources Section
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Joe Manchin III
Governor

Frank Jezioro
Director

July 28, 2005

Mr. Douglas B. Inkley, Ph.D.
Senior Science Advisor
National Wildlife Federation
11100 Wildlife Center Drive
Reston, VA 20190-5362

Dear Mr. Inkley:

Thank you for providing comments on Legislative Rule 58-CSR64 – Miscellaneous Permits and Licenses recently filed by the West Virginia Division of Natural Resources that establishes certain terms and conditions for all captive cervid facilities in the state (e.g., inventory, record keeping and marking of animals, minimum standards for captive cervid facilities including fence design and construction, disease testing and monitoring requirements for animals including testing for Chronic Wasting Disease (CWD) and other transmissible diseases, etc.). This rule has been prepared to address the emerging and ongoing risks associated with captive cervid facilities and the potential for exposing the state's wild deer population to CWD infection.

The West Virginia Division of Natural Resources welcomes comments from the public on its various management programs and appreciates your interest in this important issue. We are pleased to receive your comments as they relate to this rule, and we will take these comments under advisement and consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Curtis I. Taylor".

Curtis I. Taylor, Chief
Wildlife Resources Section

CIT/s

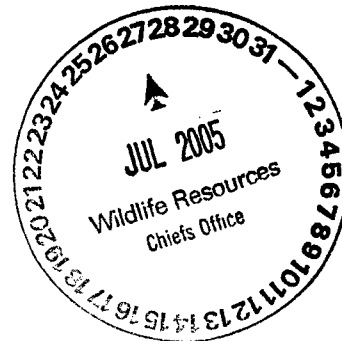
cc: Billie Shearer



NATIONAL WILDLIFE FEDERATION®

People and Nature: Our Future Is in the Balance

July 26, 2005



Mr. Curtis I. Taylor, Chief
Wildlife Resources Section
Capitol Complex
Building 3, Room 812
Charleston WV 25305

Re: Proposed rules on Miscellaneous Permits and Licenses - Administrative Rule
58CSR64, relating to captive cervid licenses

Dear Mr. Taylor:

The National Wildlife Federation is the Nation's largest conservation/education organization with affiliated organizations across the country, including the West Virginia Wildlife Federation. The mission of the National Wildlife Federation is to inspire Americans to protect wildlife for our children's future.

NWF appreciates this opportunity to comment on the West Virginia Division of Natural Resources' filing of proposed rules on Miscellaneous Permits and Licenses, specifically Administrative Rule 58CSR64, relating to captive cervid licenses.

Please find attached the NWF resolution "Big & Trophy Game Ranching" expressing our opposition to big game ranching, including the captive raising of cervids. Our greatest concern is the threat of increased risk of wildlife disease transmission. The spread of Chronic Wasting Disease (CWD) among captive and wild cervids in North America has been very difficult to stop, continuing despite regulations and procedures intended to control this deadly disease. The transport of captive cervids has contributed to the spread of CWD.

The potential social and financial costs of CWD and other diseases are great. CWD in Wisconsin's wild deer herd led to attempts to remove literally tens of thousands of deer from large areas, thereby reducing sport hunting of deer and agency revenue from the decline in hunting licenses.

Another concern we have with big game ranching is that it permits the sport shooting of penned or captive wildlife. This activity, engaged in by a select few for a significant fee unaffordable to most, is not hunting. It is unsportsmanlike in that it denies the opportunity of fair chase, and for that reason it casts a bad light on hunting overall.

Big game ranching also includes the construction of game proof fencing, which thereby inhibits the natural movement of native free ranging wildlife.



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consumer pulp produced in a chlorine
free pulping and bleaching process.

NATIONAL WILDLIFE FEDERATION

Resolution No. 21
1991

Fish and Wildlife Management

WHEREAS, the National Wildlife Federation is the nation's largest conservation/education organization and is dedicated to protecting our environment and conserving and restoring fish and wildlife species; and

WHEREAS, members of the National Wildlife Federation have broad and diverse opinions on the consumptive use of fish and wildlife, yet are united in their dedication to the conservation of fish and wildlife and their habitats; and

WHEREAS, hunting, fishing and trapping have long been recognized by the National Wildlife Federation and its affiliates as legitimate recreational pursuits and important to the conservation and management of our nation's fish and wildlife resources; and

WHEREAS, properly regulated hunting, fishing and trapping have never caused the extinction of a species or caused any species to become threatened or endangered; and

WHEREAS, hunters, anglers and trappers make significant contributions to the protection, habitat improvement, restoration and management of fish and wildlife through the payment of license fees, excise taxes on certain outdoor equipment, conservation stamps, private contributions and cooperation with law enforcement agencies; and

WHEREAS, efforts to curtail and/or eliminate scientifically-regulated hunting, fishing, and trapping on lands of the National Wildlife Refuge System and the National Park Service continue to be promoted by a number of animal welfare and other organizations; and

WHEREAS, certain anti-hunting, anti-trapping and anti-fishing groups have engaged and continue to engage in activities that disrupt hunters, anglers and trappers from engaging in legally-sanctioned hunting, fishing and trapping which, in turn, limit the ability of natural resource agencies to effectively manage fish and wildlife resources; and

WHEREAS, certain anti-hunting, anti-trapping and anti-fishing groups have mounted nationwide publicity campaigns which inaccurately depict activities regarding the consumptive use of wildlife;

NOW, THEREFORE, BE IT RESOLVED that the National Wildlife Federation in annual meeting assembled March 21-24, 1991, in Memphis, Tennessee, reiterates its dedication to the conservation of fish and wildlife and their habitats; and

BE IT FURTHER RESOLVED that the National Wildlife Federation supports hunting, fishing and trapping on lands of the National Wildlife Refuge System and the National Park Service when such activities are scientifically-regulated and are shown to be compatible with the primary purpose of these lands; and

BE IT FURTHER RESOLVED that the National Wildlife Federation reiterates its support of all interested citizens to lawfully engage in hunting, trapping, fishing and other outdoor activities without unlawful interference from anti-hunting, anti-trapping and anti-fishing groups; and

BE IT FURTHER RESOLVED that the National Wildlife Federation endorses adoption of appropriate statutes and/or regulations which establish penalties for any person or persons who unlawfully impede or attempt to impede any persons from lawfully engaging in hunting, trapping and fishing; and

(over)



DIVISION OF NATURAL RESOURCES

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**Joe Manchin III
Governor**

**Frank Jezioro
Director**

July 28, 2005

Mr. Fred Huebner
29256 110th Street
South English, IA 52335

Dear Mr. Huebner:

Thank you for providing comments on Legislative Rule 58-CSR64 – Miscellaneous Permits and Licenses recently filed by the West Virginia Division of Natural Resources that establishes certain terms and conditions for all captive cervid facilities in the state (e.g., inventory, record keeping and marking of animals, minimum standards for captive cervid facilities including fence design and construction, disease testing and monitoring requirements for animals including testing for Chronic Wasting Disease (CWD) and other transmissible diseases, etc.). This rule has been prepared to address the emerging and ongoing risks associated with captive cervid facilities and the potential for exposing the state's wild deer population to CWD infection.

The West Virginia Division of Natural Resources welcomes comments from the public on its various management programs and appreciates your interest in this important issue. We are pleased to receive your comments as they relate to this rule, and we will take these comments under advisement and consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Curtis I. Taylor".

Curtis I. Taylor, Chief
Wildlife Resources Section

CIT/s

cc: Billie Shearer

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 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.

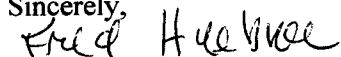
It is completely unjustified and unrealistic to require a private individual to assume the cost of depopulation, testing, and disposing of potentially hundreds of animals which are property of the state of West Virginia. If deer test positive on both sides of the fence it would be impossible to determine 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.

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

29256 110th Street

South English, IA 52335

319-664-3546

319-530-7824

circleh@netins.net

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.



DIVISION OF NATURAL RESOURCES

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**Joe Manchin III
Governor**

**Frank Jezioro
Director**

July 28, 2005

Mr. James G. Mann, Esquire
Pennsylvania Deer Farmers Association
PO Box 5
New Tripoli, PA 18066

Dear Mr. Mann:

Thank you for providing comments on Legislative Rule 58-CSR64 – Miscellaneous Permits and Licenses recently filed by the West Virginia Division of Natural Resources that establishes certain terms and conditions for all captive cervid facilities in the state (e.g., inventory, record keeping and marking of animals, minimum standards for captive cervid facilities including fence design and construction, disease testing and monitoring requirements for animals including testing for Chronic Wasting Disease (CWD) and other transmissible diseases, etc.). This rule has been prepared to address the emerging and ongoing risks associated with captive cervid facilities and the potential for exposing the state's wild deer population to CWD infection.

The West Virginia Division of Natural Resources welcomes comments from the public on its various management programs and appreciates your interest in this important issue. We are pleased to receive your comments as they relate to this rule, and we will take these comments under advisement and consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Curtis I. Taylor".

Curtis I. Taylor, Chief
Wildlife Resources Section

CIT/s

cc: Billie Shearer



Pennsylvania Deer Farmers Association, Inc

To Preserve, Protect & Promote the Deer Industry in Pennsylvania

July 26, 2005



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Mr. Curtis 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
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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).

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A taxidermist and wild life rehabilitator in Oneida County (who incidentally kept farmed deer) received carcasses of hunter-killed cervids from CWD endemic states as part of his taxidermy operation. This individual conducted his taxidermy operation in the same location where he kept rehab animals. By allowing his rehab animals to come into contact with the contaminated carcasses, CWD was transmitted.

The rehab deer were ultimately released back into the wild. Through the extensive investigation conducted by New York State officials, they were able to trace the introduction of CWD into the state back to the hunter killed carcass received by the taxidermist.

This is not a theory coming from the PA or NY deer farming community. The New York State Department of Agriculture and the USDA call it their "leading theory" and "most likely source" of CWD. I offer you a recent quote from the Pennsylvania Game Commission:

"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."
(emphasis added)

PGC 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. Curtis I. Taylor
July 26, 2005
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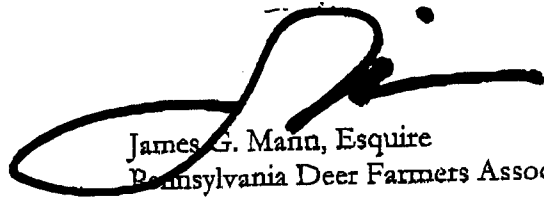
Our chief concerns are two-fold. First, your proposed regulation seems geared toward eradication of deer farms and not prevention of transmissible disease. Second, by failing to recognize the very real means of CWD transmission, you could be creating a situation where CWD could travel through West Virginia 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. Mann, Esquire
Pennsylvania Deer Farmers Association

cc: Dave Griffith, PDFA President



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Joe Manchin III
Governor

Frank Jezioro
Director

July 28, 2005

Mr. Curt D. Waldvogel, President
Whitetails of Wisconsin
W7641 Hwy 47
Antigo, Wis. 54409

Dear Mr. Waldvogel:

Thank you for providing comments on Legislative Rule 58-CSR64 – Miscellaneous Permits and Licenses recently filed by the West Virginia Division of Natural Resources that establishes certain terms and conditions for all captive cervid facilities in the state (e.g., inventory, record keeping and marking of animals, minimum standards for captive cervid facilities including fence design and construction, disease testing and monitoring requirements for animals including testing for Chronic Wasting Disease (CWD) and other transmissible diseases, etc.). This rule has been prepared to address the emerging and ongoing risks associated with captive cervid facilities and the potential for exposing the state's wild deer population to CWD infection.

The West Virginia Division of Natural Resources welcomes comments from the public on its various management programs and appreciates your interest in this important issue. We are pleased to receive your comments as they relate to this rule, and we will take these comments under advisement and consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Curtis I. Taylor".

Curtis I. Taylor, Chief
Wildlife Resources Section

CIT/s

cc: Billie Shearer



Whitetails of Wisconsin
Curt Waldvogel, President
W7641 Hwy 47
Antigo, Wis. 54409
cdwal@newnorth.net
(715) 489-3113

7-28-05

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



Dear Mr. Taylor:

I am writing on behalf of the Whitetails of Wisconsin regarding the West Virginia Department of Natural Resources Proposed Rule Title 58 Series 64. I have to say that after reading the proposed regulations it seemed clear the intent was not to satisfy an animal health issue or preserve public health. What the regulations would do is make deer farming in West Virginia become extinct. The proposed rules are obviously not using sound science that has been learned over the last 30+ years since the disease has been identified. The troubling part is that issues are being ignored that would leave WV open to the importation and spread of CWD. We have never denied that transportation of live animals in a captive cervid environment is an avenue for CWD transmission. However, it is not the only, nor the most likely mode of transmission. Studies in Colorado have indicated this statement to be true. In fact, it has never been shown nor proven that CWD has ever been transmitted from a captive animal to the wild. The cervid industry is not against rules and regulations that are fair and prudent. In fact, we view them as a means to protect ourselves in the event of disease arrival. We like to have the ability to show a track record of housing and trading healthy animals. In the event of disease arrival, it is this record that will help exonerate our industry as the possible source. We believe a strong foundation is being built with this view of regulation and disease eradication. It is this foundation that will help our industry nationwide enjoy great success in the future.

The cervid industry has often been overlooked as a meaningful contributor to the economy. Our economic impact is often underestimated and rarely understood. The cervid industry is part of the agriculture industry. We are an alternative livestock, not captive wildlife, and should be treated as such. The potential for growth in the cervid market is tremendous. Most people do not understand the impact we can have on the economy. Some of the products we offer include velvet, hard antler, hunting, venison, semen, animals, etc. In Wisconsin there are over 600 cervid farms contributing to the economy. Deer farming offers the state of WI several million dollars as an economic gain. Monetary contribution comes in the form of labor hired, feed, fencing material, veterinary services, land and equipment acquisitions, tourism, taxes (income, sales, capital gains, etc.) and the list goes on. While we are not offering that we are the major contributor to the WI economy, we know the impact is significant and has room for substantial growth, if allowed. The impact of the cervid industry and its growth is applicable to virtually every state including West Virginia. This impact will never be realized if the regulations are imposed as written, as they are unfair, impractical, and would be impossible to follow.

Many statements and accusations that introduce the proposed rules are misleading and/or blatantly false. Some examples and rebuttals are:

1. 36% decline in hunters. Even with the overblown hype of CWD first being discovered in WI, there was not a 36% decline in hunters. The past year (2004) numbers of hunters in WI are back to levels experienced before CWD. Any decline in numbers of hunters cannot be attributed to anything other than the natural decline in hunting participation.
2. Primary method of CWD transmission is interstate live animal movement. As stated previously, studies have shown this to be untrue. In fact, there are no studies that would accommodate the validity of this statement. Furthermore, there is no evidence that WV has CWD in any penned or wild environment. (As an aside, I wonder about the legal liability incurred by anyone making such statements.)
3. Problems with TB in whitetail deer. To be a problem there first has to be a case. There are no known cases of TB infected captive whitetail deer. Several thousand animals have been tested with no positive cases being confirmed.
4. Incubation period of 5 years. Virtually all research has shown that the incubation period of CWD is no greater than 3 years. Some states are using 5 years monitoring as a basis for importation. The extended 2 years is nothing more than a buffer for the sake of caution.
5. CWD is always fatal. Without the privilege of a live test, this statement is no more than an assumption.

There are many other points of contention throughout the proposed rules. I will not repeat what many other states have written as rebuttal to them. I will offer that I have read them and agree with their positions.

In closing, I would like to say that the proposed rules, and arguments for unfair and over burdensome regulations, focus on what CWD is or may be. Instead, I would like to offer what it is not. CWD is not the devastating deadly disease once believed. All wild populations that have seen any infectivity rate have not seen a decline in the total population. Often times the opposite is true. Populations thrive to the point of overabundance in spite of the disease. CWD is not as much about eradication as it should be education. We should take what we have learned over the last few decades to inform the public that this disease is an inconsequential part of a natural process. Education is key to moving forward as allies regarding disease management. The industry has always offered and will continue to offer our support to the wildlife agencies in charge of disease management. We are natural allies and will accomplish more working together versus against each other.



Curt D. Waldvogel - President
Whitetails of Wisconsin



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Joe Manchin III
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July 28, 2005

Mr. Ronn A. Grandia, MD, FACS
Executive Director
West Virginia Deer Farmers Association
PO Box 55
Fraziers Bottom, WV 25082

Dear Mr. Grandia:

Thank you for providing comments on Legislative Rule 58-CSR64 – Miscellaneous Permits and Licenses recently filed by the West Virginia Division of Natural Resources that establishes certain terms and conditions for all captive cervid facilities in the state (e.g., inventory, record keeping and marking of animals, minimum standards for captive cervid facilities including fence design and construction, disease testing and monitoring requirements for animals including testing for Chronic Wasting Disease (CWD) and other transmissible diseases, etc.). This rule has been prepared to address the emerging and ongoing risks associated with captive cervid facilities and the potential for exposing the state's wild deer population to CWD infection.

The West Virginia Division of Natural Resources welcomes comments from the public on its various management programs and appreciates your interest in this important issue. We are pleased to receive your comments as they relate to this rule, and we will take these comments under advisement and consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Curtis I. Taylor".

Curtis I. Taylor, Chief
Wildlife Resources Section

CIT/s

cc: Billie Shearer



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,

A handwritten signature in cursive script that reads "Ronn A. Grandia".

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



DIVISION OF NATURAL RESOURCES

**Wildlife Resources Section
Capitol Complex, Building 3, Room 812
1900 Kanawha Boulevard, East
Charleston WV 25305-0664
Telephone (304) 558-2771
Fax (304) 558-3147
TDD (304) 1-800-354-6087**

**Joe Manchin III
Governor**

**Frank Jezioro
Director**

July 28, 2005

Mr. John R. Rose
Rt. 4, Box 266
Philippi, WV 26416

Dear Mr. Rose:

Thank you for providing comments on Legislative Rule 58-CSR64 – Miscellaneous Permits and Licenses recently filed by the West Virginia Division of Natural Resources that establishes certain terms and conditions for all captive cervid facilities in the state (e.g., inventory, record keeping and marking of animals, minimum standards for captive cervid facilities including fence design and construction, disease testing and monitoring requirements for animals including testing for Chronic Wasting Disease (CWD) and other transmissible diseases, etc.). This rule has been prepared to address the emerging and ongoing risks associated with captive cervid facilities and the potential for exposing the state's wild deer population to CWD infection.

The West Virginia Division of Natural Resources welcomes comments from the public on its various management programs and appreciates your interest in this important issue. We are pleased to receive your comments as they relate to this rule, and we will take these comments under advisement and consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Curtis I. Taylor".

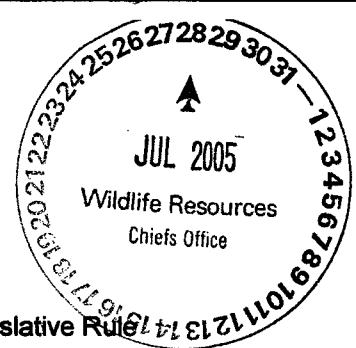
Curtis I. Taylor, Chief
Wildlife Resources Section

CIT/s

cc: Billie Shearer

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

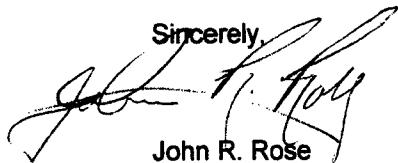
violations of the proposed Emergency Rule. My question is- if there is such a dire emergency, why hasn't anything been done with this facility to eliminate the chance of CWD in this facility? You have less knowledge of what these wild deer have been exposed to in the wild prior to your acquiring them, 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,

A handwritten signature in black ink, appearing to read "John R. Rose", written over a horizontal line.

John R. Rose

Billie Shearer

From: terry jones [terryjonesfor@hotmail.com]
Sent: Wednesday, July 27, 2005 6:10 AM
To: Wildlife Resouces General Mailbox
Subject: Time to adopt stronger regulations for deer farms

"I SUPPORT THE EMERGENCY RULE # 58CSR64 REGARDING DEER FARMS FILED BY THE DNR. "

Thank you for providing comments on Legislative Rule 58-CSR64 – Miscellaneous Permits and Licenses recently filed by the West Virginia Division of Natural Resources that establishes certain terms and conditions for all captive cervid facilities in the state (e.g., inventory, record keeping and marking of animals, minimum standards for captive cervid facilities including fence design and construction, disease testing and monitoring requirements for animals including testing for Chronic Wasting Disease (CWD) and other transmissible diseases, etc.). This rule has been prepared to address the emerging and ongoing risks associated with captive cervid facilities and the potential for exposing the state's wild deer population to CWD infection.

The West Virginia Division of Natural Resources welcomes comments from the public on its various management programs and appreciates your interest in this important issue. We are pleased to receive your comments as they relate to this rule, and we will take these comments under advisement and consideration.

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

From: terry jones [mailto:terryjonesfor@hotmail.com]

Sent: Wednesday, July 27, 2005 6:10 AM

To: Wildlife Resouces General Mailbox

Subject: Time to adopt stronger regulations for deer farms

"I SUPPORT THE EMERGENCY RULE # 58CSR64 REGARDING DEER FARMS
FILED BY THE
DNR. "

Billie Shearer

From: Hardwdbskt@aol.com
Sent: Tuesday, July 26, 2005 8:21 AM
To: Wildlife Resouces General Mailbox
Subject: (no subject)

I SUPPORT THE EMERGENCY RULE # 58CSR64 REGARDING DEER FARMS FILED BY THE DNR. "

Marc Fox
PO Box 244
Fairview WV 26570
304 449-1732

7/26/2005

Thank you for providing comments on Legislative Rule 58-CSR64 – Miscellaneous Permits and Licenses recently filed by the West Virginia Division of Natural Resources that establishes certain terms and conditions for all captive cervid facilities in the state (e.g., inventory, record keeping and marking of animals, minimum standards for captive cervid facilities including fence design and construction, disease testing and monitoring requirements for animals including testing for Chronic Wasting Disease (CWD) and other transmissible diseases, etc.). This rule has been prepared to address the emerging and ongoing risks associated with captive cervid facilities and the potential for exposing the state's wild deer population to CWD infection.

The West Virginia Division of Natural Resources welcomes comments from the public on its various management programs and appreciates your interest in this important issue. We are pleased to receive your comments as they relate to this rule, and we will take these comments under advisement and consideration.

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

From: Hardwdbst@aol.com [mailto:Hardwdbst@aol.com]

Sent: Tuesday, July 26, 2005 8:21 AM

To: Wildlife Resouces General Mailbox

Subject: (no subject)

I SUPPORT THE EMERGENCY RULE # 58CSR64 REGARDING DEER FARMS FILED BY THE DNR. "

Marc Fox

PO Box 244

Fairview WV 26570

304 449-1732



DIVISION OF NATURAL RESOURCES

**Wildlife Resources Section
Capitol Complex, Building 3, Room 812
1900 Kanawha Boulevard, East
Charleston WV 25305-0664
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TDD (304) 1-800-354-6087**

**Joe Manchin III
Governor**

**Frank Jezioro
Director**

July 26, 2005

Mr. Thomas M. Baker
Mrs. Helen H. Baker
Members of WVDFA
Perry Wildlife Zoo
9604 Trout Run Road
Wardensville, WV 26851

Dear Mr. & Mrs. Baker:

Thank you for providing comments on Legislative Rule 58-CSR64 – Miscellaneous Permits and Licenses recently filed by the West Virginia Division of Natural Resources that establishes certain terms and conditions for all captive cervid facilities in the state (e.g., inventory, record keeping and marking of animals, minimum standards for captive cervid facilities including fence design and construction, disease testing and monitoring requirements for animals including testing for Chronic Wasting Disease (CWD) and other transmissible diseases, etc.). This rule has been prepared to address the emerging and ongoing risks associated with captive cervid facilities and the potential for exposing the state's wild deer population to CWD infection.

The West Virginia Division of Natural Resources welcomes comments from the public on its various management programs and appreciates your interest in this important issue. We are pleased to receive your comments as they relate to this rule, and we will take these comments under advisement and consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Curtis I. Taylor".

Curtis I. Taylor, Chief
Wildlife Resources Section

CIT/s

cc: Billie Shearer

July 25, 2005

Mr. Curtis Taylor, DNR
Wildlife Resources Section
Capitol Complex, Building 3, Room 812
Charleston, West Virginia 23505



Dear Mr. Taylor:

We have owned and operated Perry Wildlife Zoo (PWZ) for 21 years. It has been our only source of income for that period of time. We have operated under a West Virginia Game Farm license, a West Virginia Menagerie permit and a U.S.D.A permit.

With 20,000 visitors a year, PWZ promotes West Virginia tourism. We also support West Virginia through sales of Online and Instant Lottery tickets and Hunting and Fishing licenses as well as operating a West Virginia game checking station.

We have invested well over \$350,000 in support of and promotion of West Virginia tourism and product sales. If this Emergency Rule (ER) goes into effect, our property and business will have no value for resale or transfer to anyone, including our four sons.

As for the Emergency Rule Title #58, Authority 20-1-7 (20) and 20-1-7 (30), Emergency Amendment to an existing rule, we believe there is no emergency to warrant this emergency rule against deer farming, hunting preserves and private zoos (like ours). During our annual inspection on June 29, 2005, Mr. Allan J. Niederberger, (Wildlife Management Resources Section) stated that "This is an effort to eliminate Whitetail deer in private farms."

In reference to the ER, PWZ disagrees with rules 7.4.4 through 7.4.35. We specifically do not agree with rule 7.4.24 which states that fawns under age 6 months cannot be moved or transferred. Our 21 years of experience as shown that when young fawns are transferred to other cervid facilities, they experience less stress and adjust better to their new environment than when they are transferred at 6 months or older.

Rule 7.8, Roadside Menagerie permit, section 7.8.11 states that Visitor contact with Buffalo, Whitetail deer or Elk, may not be allowed until the animal is 6 months of age. We take exception to this rule and question what the contact with these animals has to do with C.W.D.

Rule 7.8.17 states that this permit does not authorize the holder to keep mammals that are not native to West Virginia. For the past 21 years, the mammals at PWZ that are not native to West Virginia have been covered under our U.S.D.A. permit.

Rule 7.8.19 states that Cervids cannot be held or displayed under a menagerie permit. This rule in essence puts us (PWZ) out of business. We currently have no place available to transfer the Whitetail deer from the menagerie and the cost to establish such an area would be prohibitive.

A brief summary to Emergency Rule Title 58, June 28, 2005 is as follows:

We (PWZ) agree on a CWD testing program on deceased cervids 6 months of age or older.

We agree on Whitetail deer ID (tattoo and metal ear tag), but disagree with the requirement that the tag be visible from 50 yards.

We agree and have followed the transfer, the mortality, the birth of Whitetail deer and the 15 day reporting of such. We have always co-operated fully with law enforcement during the annual inspections of our facility.

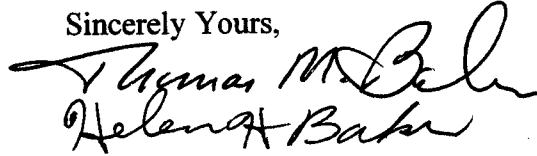
It is apparent to us that Emergency Rule #58 is another effort similar to Emergency Rule #63 dated October 18, 2002 and Senate Bill #277 in April 2005, to eliminate Whitetail deer in captivity and to promote excessive control over exotic animals.

We believe that the 150 people who are killed each year on public highways and the millions of dollars in personal property damage (\$54 million in West Virginia alone last year) due to Whitetail deer related accidents, should be as important an issue as protecting the \$300 million hunting industry from CWD in West Virginia.

We also believe there is more personal contact with Whitetail deer in many of the State Parks, on golf courses, and on private property than with **all** captive Whitetail deer in West Virginia. Yet, there are no provisions (such as fences) to protect the general public from personal contact in these areas.

We ask for understanding of our position and would welcome open discussion and debate in reference to Emergency Rule #58.

Sincerely Yours,

Handwritten signatures of Thomas M. Baker and Helen H. Baker. The signature of Thomas M. Baker is written above the signature of Helen H. Baker.

Thomas M. Baker
Helen H. Baker
Members of WVDFA
Perry Wildlife Zoo
9604 Trout Run Road
Wardensville, West Virginia 26851

Enclosure: A recent copy of the North American Whitetail: Report on page 38 entitled Grappling with C.W.D.

CC: Harold Michael, West Virginia State Delegate
Wendel Turner, Attorney

Billie Shearer

From: Billie Shearer on behalf of Wildlife Resources General Mailbox
Sent: Monday, July 25, 2005 2:14 PM
To: 'Mark.Cobb@contractors.nationalcity.com'
Cc: Billie Shearer; Paul Johansen
Subject: RE: Emergency Ruling Title 58 Series 64

Thank you for providing comments on Legislative Rule 58-CSR64 – Miscellaneous Permits and Licenses recently filed by the West Virginia Division of Natural Resources that establishes certain terms and conditions for all captive cervid facilities in the state (e.g., inventory, record keeping and marking of animals, minimum standards for captive cervid facilities including fence design and construction, disease testing and monitoring requirements for animals including testing for Chronic Wasting Disease (CWD) and other transmissible diseases, etc.). This rule has been prepared to address the emerging and ongoing risks associated with captive cervid facilities and the potential for exposing the state's wild deer population to CWD infection.

The West Virginia Division of Natural Resources welcomes comments from the public on its various management programs and appreciates your interest in this important issue. We are pleased to receive your comments as they relate to this rule, and we will take these comments under advisement and consideration.

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

From: Cobb, Mark (TEK Systems) [mailto:Mark.Cobb@contractors.nationalcity.com]
Sent: Monday, July 25, 2005 12:05 PM
To: wwsos@wwsos.com
Cc: Lysti Looney
Subject: Emergency Ruling Title 58 Series 64

To Whom It May Concern:

I am writing this letter in response to the upcoming proposed deer farming laws. I raise a few different types of cervidae. I have lived in a few different states and been involved in animal husbandry for 36 years. I am originally from West Virginia and very proud of our laid back lifestyle here. I went to college, then eight years in the military and a few jobs in other states before getting the opportunity to move back to West Virginia in 2000. My family has had many generations of farmers living in West Virginia for over a century. I am a Senior Network Engineer and there is not much work for me in West Virginia, it is a love/hate relationship. I love living in WV but hate having to work in other states. Part of what I truly love about WV is that it is laid back and "behind" some of the more progressive and liberal states which means that there is not much work for technical people like myself. The other side of the coin is that while I must work in other states and for other state agencies that have more money for technology than WV can spend, my children get to go to schools with lower crime and drug rates and live in areas with less violent crimes than the places that I work. My point to all of this is there is always good and bad in everything. I am proud that I grew up in WV, went to college, served in the US Air Force and made something of myself as a role model for my children and the other young adults that I have mentored.

I care about the young people in our state and about our state as a whole. I have a farm that I spend in excess of \$20,000.00/annually that is open to the public free of charge. I do this for a few reasons. The first reason is that it is sad that WV is the only state, including Hawaii and

7/25/2005

Alaska, which does not have a zoo. Our school children get on buses every year in WV to go to Pittsburgh, Columbus or other cities to visit a zoo. The second reason is that while my farm is small, I have generated work and revenue for the community in which I live. This is a major obstacle for some of our rural communities; jobs! I will save that topic for my letters to other state agencies. The third reason is that I enjoy seeing the animals and interacting with them. I talk to the local DNR agents and am told that funding for the "mobile" animals that the DNR used to take around to the schools had been cut. I was also told that the funding for the game farm at French Creek is being cut. Not only did I write letters to Mr. Hamrick about these concerns, I volunteered to take either or both programs over and have them privately run without cost to the state. No reply or response was given. I have offered to help start and fund a zoo to our state leaders. Again, no response. I have come to the conclusion that not only is WV a poor state, but one that does not care about our children, our animals, or the success of our state. A few years ago, I wrote another of many letters to Mr. Hamrick about the lies and wrongs of the DNR stance on wildlife. It was being told to our children and groups of people that young deer fawns would be "adopted" by other adult does if their mother was killed by a car or other means. This is not true. Also, leaving a fawn on the side of the road while its mother is dead will only cause another accident, maybe killing and entire family from PA on its way to FL on vacation. Most states have some type of wildlife rehabilitation program, some which are licensed. I have had many phone calls from concerned citizens about what they should do with animals that they found hurt, stranded, or dying. After they make the calls to the animal shelter and DNR who say just leave it alone, they call me. I have had cars pull up to my house with a parent and small child crying over a fawn that was hit on the road, an owl that was rescued from a cat, a raccoon with a missing leg and internal injuries, and many other stories. I tell them that it is not legal for me to care for the animal and there is no place to take it. They don't understand and neither do I. In the age of Animal Planet, people are supposed to care for sick and injured animals. We will be fined if we spend our time and money to do so. WV does not have any such program. Again, I sent letters asking to start such a program and I sent a copy to the WV Department of Agriculture. No response from Mr. Hamrick or his office. Mr. Gus Douglas did call me, sent me a letter, and set up a visit with me at my farm. He later had to send Dr. Joe Starcher due to Mr. Douglas being ill, but at least I got a response. I was very excited that someone actually cared about these issues even though it was out of their hands. Dr. Joe Starcher spent a few hours with me at my farm.

I am a member of the WV Deer Farmers Association, as well as other organizations. I am an avid hunter and life member of the NRA. I stated this to show that I understand what the DNR is up against. I know that our state's hunting heritage is strong and generates a lot of revenue for the state. No one that I know wants to stop that, only making it stronger and generate more revenue and maybe even some jobs. I have been a board member at several zoos' to include Denver Zoo, Henry Villas Zoo, and Blue Bird Farm. I am a member of the Columbus Zoo and The Wilds where I get to participate in member only functions and get behind the scenes. I know that the automobile insurance companies have put a lot of pressure on the state and DNR to eradicate or severely damage our whitetail deer herd. I know the tactics that were used to try to get the WV Bow Hunters on the side of the DNR on these issues. The board members of the Bow Hunters may side with the DNR, but the general members do not. I have many friends and a few of my employees that are members of the WV Bow Hunters organization as well as both my taxidermists. By the way, did any tell the WV Bow Hunters that the new laws would prohibit them from bringing their hides, meat, and trophies back into WV from out of state?

Here is what this boils down to. The WV DNR does not want farmers raising deer or elk because they don't know how to handle it and don't know anything about it. So, to try to stop something that they do not understand, they use the excuse of a man-made disease, CWD that they do not understand. I have lived in Colorado where this disease was created by the state officials in their research back in the 1960's and I have lived in Madison, Wisconsin where they have had the most problems with CWD. I take this disease very serious as does every deer

farmer that I know in OH, PA, WI, CO and WV. I also take other diseases very seriously like "Mad Cow", Scrapies (no cure), TB, Coggins (no cure yet), Pollurum, Typhoid, Avian Influenza, Coccidiosos, Parvo, Canine Distemper, Feline Leukemia, West Nile, Strangles, and many others. I was out in Alberta Canada in May/June 2002 when the case of Mad Cow was found. I wanted to learn more about the disease. Everyone that I know in the WV Deer Farmers Association has been testing for CWD. I have only lost one cervidae in over 5 years. I lost him last year and was greatly concerned. I had a CWD test done as well as many other tests and an autopsy only to discover that he died from pneumonia. I lost a sheep a few years ago and did the same thing to ensure it was not scrapies or other disease. Farmers that raise livestock, no matter what type, spend large amounts of money to deter diseases and find out why an animal dies. It would be very costly to loose a flock of sheep to scrapies, or herd of horses to Coggins, a herd of cattle to Mad Cow disease, or herd of deer to CWD. All of these diseases are basically the same and do not have cures. So why should we treat deer any differently than sheep, cattle, or horses? I have spent more time and money learning about these diseases and how to stop them than any hunting organization and probably more than the WV DNR. I, being an avid hunter want to know everything possible about the animals that I hunt and the environment in which they live. I spend an average of \$15,000 to \$20,000 each year on hunting. I hunt all over the US and Canada. I am going to South Africa for two weeks next month to hunt with Ted Nugent on an archery hunt. So as you can see, I take this serious. I spend nearly half of my \$100,000+ salary every year on hunting and raising livestock. I learn a lot, the children that visit my farm learn a lot, and the people that bring their families get to interact with animals that they may have never seen before. The DNR officials that come to my farm every year can not even identify what some of the animals are. Maybe if they had the opportunity to visit a farm like mine when they were children, they could.

I assure you that the deer farmers in WV spend more money on deer farming than the hunters in WV spend on hunting. I am not talking about the out-of-state hunters, only the WV residents that usually don't even buy a hunting license because they hunt on their own land. I do own my land in WV and yet I still buy my state hunting license to do my part. I don't even need it. I usually buy all the stamps that I don't need also. Trout stamp, bear stamp, national forest stamp, migratory bird stamp, etc. I usually harvest one or deer from my farm each year and do most of my hunting in other states for bigger bucks and bulls. No one person needs to harvest 10 deer in WV. I have even heard our mayor wishing that there weren't any deer in the area and would like to see them all killed so that people would not hit them with their cars and the deer would stay out of the gardens and crops. I told him that he should exercise his right to hunt and encourage others to do the same. I told him that if he and 100 citizens of the town would each kill their legal 10 deer each, they would see many less deer. He did not want to get up and go into the cold woods during hunting season. It is much more comfortable to stay home in bed in mid-November and complain at the town meetings were it is warm and dry.

The bottom line is this. WV has not stopped the interstate transport or raising of cattle which can carry BSE "Mad Cow" disease and has been proven to kill more people in the world than has CWD. As well as TB. True Facts. Not to mention that it can be passed on to our native buffalo which are extinct in WV as well as the elk that still fall under the protection of the DNR. WV also allows the free interstate transport and raising of horses that can carry a multitude of diseases such as Coggins and strangles without having them in 8 foot high fences. Fact, a horse can jump a 4 foot high fence, so can a cow. WV allows the free passage of canines/dogs for interstate travel and breeding. They can carry and pass along parvo, distemper, and rabies to our wild coyotes and raccoons, not to mention people. I wonder if anyone has any numbers on how many coyotes and raccoons have been killed or died from rabies via a domestic dog?? Or how many humans have died from rabies? WV allows the trouble free interstate transport, breeding, and free roaming felines/cats totally uninhibited. They carry many diseases such as feline leukemia that can be passed on to our beautiful fox, bobcat, and few mountain lions. Yet we let

them run free all over our great state to kill our squirrels, song birds, rabbits, moles, ducklings or anything else they can catch. The numbers are probably in the millions. We also have transported and transplanted elk from New Mexico and Utah, where the CWD has been found; wondering freely through the southern part of WV from the herds in KY. What next, is the state going to fence and double fence the borders of WV to stop deer and elk from crossing into WV from VA, OH, MD, PA, and KY.? Both PA and KY have an elk hunting season now where they have re-established the elk herds from elk caught and transported from Colorado, Utah, New Mexico and other states. As you know, these animals were not tested for CWD before being released to run wild in our neighboring states, because there is not a live test for CWD. Of course, don't forget about the pesky mosquitoes that carry several diseases such as malaria and West Nile. Again, these diseases have killed more humans, wildlife, and livestock than CWD. Another animal to mention is the common rat. Rats carry many diseases including typhoid, bubonic plague and have killed many people around the world. The point being, I can raise all the mosquitoes and rats that I want and no one will say a word or tell me how I should do it. There are many more people in WV raising rats than there are people raising deer. These rats get sold, eaten, used as pets, and turned loose in the wilds of WV every day. Do they fall under DNR since they are native to the state of WV? Who is monitoring these proven killers? This is why I feel so strongly about the WV Department of Agriculture taking the reigns on deer farming. The DNR is not a agency set up to deal with animal health issues, the Dept of Agriculture is. The DNR is great as a conservation and law enforcement agency, but they should leave agriculture, livestock, and animal health issues, such as disease, to an agency set up to do so.

I have my non-native to the US species of deer under 8 to 10 foot high fences along the state road and surrounded by 4 to 6 foot high woven wire for my other animals. So for the most part, my deer are double fenced. I feel that the state is only trying to make it extremely difficult both monetarily and "red-tape" for a farmer trying to find a way to make a living in WV to make some money. These farmers should be applauded not stifled. Last year I had over 3500 visitors to my farm. These visitors bought gas in or near where I live in WV; they ate in restaurants in or near my farm. Some visited other stores and shops and spent their money in our community. I spent over \$10,000 at our local feed store last year and they tell me all the time that I am the biggest customer and help to keep them open. I spent another \$4-5,000 on hay from the local farmers. I hire a local guy and his crew to build fence. I also use some teenagers to work on the farm during the summers and weekends. I hire people to shear animals, watch the farm while I am gone, plumbers, electricians, carpenters, tree removal, an accountant, insurance agent, and others. I rent heavy equipment and tractors, generators and pumps when needed. I have mechanics at the farm working on tractors, 4-wheelers, trucks, hay elevators, etc. I use three different veterinarians and two farriers. We have trainers work with some of the animals and I send some off to trainers. We have had groups come to visit the farm from Maryland, Georgia, Virginia, Pennsylvania, Ohio and of course West Virginia. These are church groups, civic groups, youth programs, school groups, and many others. We had a group of 35 students and 7 counselors from the summer youth program in Marietta, OH here just last week. We also allow teenagers to fulfill their community service obligation here at the farm. So, you can see how valuable one small farm can be to a community. I feel that I am just getting started. I have new fence being built as of this letter, plans for a new addition to one of the barns, a new addition to my house, a new barn for our alpaca's, I just bought another tractor and looking for a new truck within the next month. All of this money will be spent in my small community and work, services, products will come from my community. My plans for this year were for over \$100,000.00 of work and products on the farm; we have the money in the bank and have already begun. We are building a WV success story, the WV Dept. of Agriculture will be part of it, the town next to us will be part of it, the WV deer farmers will be part of it, our community will be part of it, and the WV DNR should be a part of it. The mayor of the town next to my farm has offered to help in any way they can. My farm is not even in city/town limits, I can't vote in their

town elections, and yet they offer assistance. We have accomplished all of this without any money from the public, government or the state of WV. We offer free seminars and free tours at our facility and free assistance to other farms and animal owners. All that we ask for is for the state to allow us to do what we do. I don't believe the state of WV wants the forward thinking citizens that bring in the visitors and revenue to leave the state to go to another state where they can live their dreams and help others. I am certain that the state of Ohio would welcome my farm, revenue, visitors, and money to help their wildlife rehabilitation programs, zoo's, petting zoo's, parks and over-all economy. Mr. Hamrick had many invitations to visit and didn't take the opportunity; I guess you don't need to when you have an appointed position instead of an elected one. The invitation is extended to you as well. You should see what the deer farmers are doing before you judge or condemn them. I was told that my farm does not fall under DNR regulations for many years now, yet they still do the inspections. I don't mind, I encourage the DNR to visit my farm any time they like. The director of the Humane Society used to come by our farm to visit and talk about politics and stories of mistreated animals and we would offer our assistance. We have a few animals that we acquired from those visits. I have a great relationship with the USDA, Humane Society, town mayor, local business owners, city, county, and state police officers, other farms, schools, churches, local 4H, and many other people and groups. All whom have encouraged and supported our cause. I conclude in stating that I will do my part in any way possible to help the state that I love with these issues. Be it wildlife rehabilitation, public zoo, assisting with animal care guidelines, animal education programs, or any other area.

Sincerely,
Mark Cobb

P.S. I just completed reading a report from the NY Department of Environmental Conservation. They feel that the CWD cases just found in NY were a direct result of hunters who had brought their dead animals back to a local taxidermist. The taxidermist was also caring for wild whitetail deer fawns that the state had asked him to care for. A total 5 deer have been tested positive, all five were NY wild deer that had spent time in this taxidermy studio before going into a deer farm. It has often been stated that hunters will spread the disease more freely and quicker than deer farmers. Hunters don't have their deer tested, the farmers do before they are moved or disposed off.

I also just completed reading Reuters report (18Jul05) from Washington, DC. A panel of professionals were put together. It stated that there are so many livestock diseases and too many agencies working on them that there should be a single agency working on these issues. They indicated that it should be the Agriculture Secretary and the Department of Agriculture due their knowledge of disease and disease prevention. As well as the fact that they are working on live tests and cures for diseases such as Mad Cow, CWD, Avian Influenza and Coggins. This makes sense to me. How will the DNR come up with any tests or cures for diseases??

***National City made the following annotations

This communication is a confidential and proprietary business communication. It is intended solely for the use of the designated recipient(s). If this communication is received in error, please contact the

7/25/2005

sender and delete this communication.

Billie Shearer

From: Billie Shearer on behalf of Wildlife Resources General Mailbox
Sent: Monday, July 25, 2005 2:17 PM
To: 'emcminn@charter.net'
Cc: Billie Shearer; Paul Johansen
Subject: RE: Attention: Curtis Taylor, Wildlife Chief

Thank you for providing comments on Legislative Rule 58-CSR64 – Miscellaneous Permits and Licenses recently filed by the West Virginia Division of Natural Resources that establishes certain terms and conditions for all captive cervid facilities in the state (e.g., inventory, record keeping and marking of animals, minimum standards for captive cervid facilities including fence design and construction, disease testing and monitoring requirements for animals including testing for Chronic Wasting Disease (CWD) and other transmissible diseases, etc.). This rule has been prepared to address the emerging and ongoing risks associated with captive cervid facilities and the potential for exposing the state's wild deer population to CWD infection.

The West Virginia Division of Natural Resources welcomes comments from the public on its various management programs and appreciates your interest in this important issue. We are pleased to receive your comments as they relate to this rule, and we will take these comments under advisement and consideration.

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

From: emcminn@charter.net [mailto:emcminn@charter.net]
Sent: Monday, July 25, 2005 12:24 PM
To: Wildlife Resources General Mailbox
Subject: Attention: Curtis Taylor, Wildlife Chief

I SUPPORT THE EMERGENCY RULE # 58CSR64 REGARDING DEER FARMS FILED BY THE DNR.

FROM WHAT I HAVE READ, THE RULE APPEARS TO BE TAKING NECESSARY PRECAUTION TO PREVENT THE OUTBREAK OF CWD IN WV.

THANK YOU,
ED MCMINN
SO. CHARLESTON, WV

Billie Shearer

From: RandyEpling [wvbowhunter@citynet.net]
Sent: Sunday, July 24, 2005 4:18 PM
To: Wildlife Resouces General Mailbox
Subject: 58CSR64

ATTENTION

Curtis Taylor

I SUPPORT THE EMERGENCY RULE #58CSR64 REGARDING DEER FARMS FILED BY DNR

RANDY EPLING

7/25/2005

Thank you for providing comments on Legislative Rule 58-CSR64 – Miscellaneous Permits and Licenses recently filed by the West Virginia Division of Natural Resources that establishes certain terms and conditions for all captive cervid facilities in the state (e.g., inventory, record keeping and marking of animals, minimum standards for captive cervid facilities including fence design and construction, disease testing and monitoring requirements for animals including testing for Chronic Wasting Disease (CWD) and other transmissible diseases, etc.). This rule has been prepared to address the emerging and ongoing risks associated with captive cervid facilities and the potential for exposing the state's wild deer population to CWD infection.

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

From: RandyEpling [mailto:wvbowhunter@citynet.net]

Sent: Sunday, July 24, 2005 4:18 PM

To: Wildlife Resources General Mailbox

Subject: 58CSR64

ATTENTION

Curtis Taylor

I SUPPORT THE EMERGENCY RULE #58CSR64 REGARDING DEER FARMS
FILED BY DNR

RANDY EPLING

Billie Shearer

From: Paul Johansen
Sent: Friday, July 22, 2005 10:01 AM
To: Billie Shearer
Subject: shamblin email

Billie – FYI and as requested.

Paul

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

From: Billie Shearer **On Behalf Of** Wildlife Resouces General Mailbox
Sent: Thursday, July 21, 2005 3:28 PM
To: Paul Johansen; Bret Preston
Subject: FW: RULES CHANGES

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

From: Larry Shamblin [mailto:lshamblin@cebridge.net]
Sent: Thursday, July 21, 2005 10:02 AM
To: Wildlife Resouces General Mailbox
Subject: RULES CHANGES

DEAR SIRs THE LIFETIME HUNTING AND FISHING LICENSES FEE ARE HIGH ENOUGH.WHEN YOU LOOK AT BUYING LIFETIME ANYTHING YOU ARE HOPEFUL THAT YOU WILL SAVE MONEY OVER THE LONG RUN. I KNOW ITS GIVES THE STATE SOME EXTRA MONEY TO WORK WITH BUT IF YOU MAKE IT BEYOND A NORMAL PERSONS REACH ,NONE OF US WILL BE ABLE TO AFFORD THEM.IF THE STATE NEEDS EXTRA MONEY FOR WHATEVER.RAISE THE FEES FOR OUT OF STATE HUNTERS,INCREASE THE PRICES FOR THE EXTRA STAMPS, AND INCREASE THE FINES ON THE PEOPLE THAT BREAK THE LAWS {POACHERS}.I BET THAT ABOUT 15% OF THE DEER KILL IN OUR STATE ARE NOT CHECKED IN. THE JUG OR FLOAT FISHING IS NOT A GOOD IDEA.CAN WE REALLY CALL IT FISHING. THANKS FOR THE GOOD WORK

Billie Shearer

From: Paul Johansen
Sent: Thursday, July 21, 2005 4:14 PM
To: 'Ishamblin@cebridge.net'
Cc: Billie Shearer
Subject: Comments on Legislative Rules

Dear Mr. Shamblin:

Thank you for providing comment on Legislative Rule 58CSR67 – Lifetime Hunting, Trapping and Fishing Licenses and Legislative Rule 58CSR61 – Special Fishing Rule recently filed by the West Virginia Division of Natural Resources. Legislative Rule 58CSR67 brings our agency into compliance with lifetime license fee adjustments made by the West Virginia State Legislature during the 2005 Legislative Session. Legislative Rule 58CSR61 allows anglers to fish with jugs or floats following certain requirements.

The West Virginia Division of Natural Resources welcomes comments from the public on its various wildlife management and law enforcement programs and appreciates your interest in these important issues. We are pleased to receive your comments as they relate to these rules, and we will take your comments under advisement and consideration.

Paul R. Johansen, Assistant Chief
In Charge of Game Management

7/22/2005

Billie Shearer

From: Keith Krantz [keithkrantz@wvdnr.gov]
Sent: Friday, July 22, 2005 2:11 PM
To: Wildlife Resouces General Mailbox
Subject: CWD

As a founding chapter member of the Mountaineer Branch of the Quality Deer Management Association, I
SUPPORT THE EMERGENCY RULE # 58CSR64 REGARDING DEER FARMS FILED BY THE DNR. "

Keith Krantz
Wildlife Biologist
WVDNR, Wildlife Resources
P.O. Box 67, Ward Rd.
Elkins, WV 26241
(304) 637-0245
keithkrantz@wvdnr.gov

7/25/2005

Thank you for providing comments on Legislative Rule 58-CSR64 – Miscellaneous Permits and Licenses recently filed by the West Virginia Division of Natural Resources that establishes certain terms and conditions for all captive cervid facilities in the state (e.g., inventory, record keeping and marking of animals, minimum standards for captive cervid facilities including fence design and construction, disease testing and monitoring requirements for animals including testing for Chronic Wasting Disease (CWD) and other transmissible diseases, etc.). This rule has been prepared to address the emerging and ongoing risks associated with captive cervid facilities and the potential for exposing the state's wild deer population to CWD infection.

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Sent: Friday, July 22, 2005 2:11 PM

To: Wildlife Resources General Mailbox

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As a founding chapter member of the Mountaineer Branch of the Quality Deer Management Association, ***I SUPPORT THE EMERGENCY RULE # 58CSR64 REGARDING DEER FARMS FILED BY THE DNR. "***

Keith Krantz
Wildlife Biologist
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DIVISION OF NATURAL RESOURCES

**Wildlife Resources Section
Capitol Complex, Building 3, Room 812
1900 Kanawha Boulevard, East
Charleston WV 25305-0664
Telephone (304) 558-2771
Fax (304) 558-3147
TDD (304) 1-800-354-6087**

**Joe Manchin III
Governor**

**Frank Jezioro
Director**

July 25, 2005

Mr. Mark Tonkovich
Ranch Manager – Dream Mountain Game Ranch
Route 2, Box 330
Albright, WV 26519

Dear Mr. Tonkovich:

Thank you for providing comments on Legislative Rule 58-CSR64 – Miscellaneous Permits and Licenses recently filed by the West Virginia Division of Natural Resources that establishes certain terms and conditions for all captive cervid facilities in the state (e.g., inventory, record keeping and marking of animals, minimum standards for captive cervid facilities including fence design and construction, disease testing and monitoring requirements for animals including testing for Chronic Wasting Disease (CWD) and other transmissible diseases, etc.). This rule has been prepared to address the emerging and ongoing risks associated with captive cervid facilities and the potential for exposing the state's wild deer population to CWD infection.

The West Virginia Division of Natural Resources welcomes comments from the public on its various management programs and appreciates your interest in this important issue. We are pleased to receive your comments as they relate to this rule, and we will take these comments under advisement and consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Curtis I. Taylor".

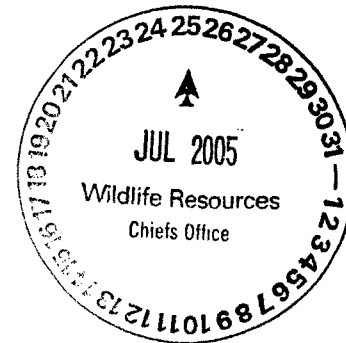
Curtis I. Taylor, Chief
Wildlife Resources Section

CIT/s

cc: Billie Shearer

MARK TONKOVICH
ROUTE 2 BOX 330

Albright, WV 26519
240-321-2424 cell
marktonkovich@msn.com



July 21, 2005

Mr. Curtis Taylor
WV DNR
Wildlife Resources Section
State Capitol Complex
Building 3, Room 82
1900 Kanawha Blvd., East
Charleston, WV 25305

Dear Mr. Taylor,

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.

Dream Mountain Game Ranch LLC would like for the following counter proposal to receive consideration:

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
Sales tax on home furnishings
Sales tax on cabin building materials & furnishings
Sales tax on ATV's, snowmobiles, etc.
Total Sales Tax Revenue

885,000
141,600
48,000
70,800
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	
<u>8,400</u>	
28,796	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	59,000
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.



DIVISION OF NATURAL RESOURCES

Wildlife Resources Section
Capitol Complex, Building 3, Room 812
1900 Kanawha Boulevard, East
Charleston WV 25305-0664
Telephone (304) 558-2771
Fax (304) 558-3147
TDD (304) 1-800-354-6087

Joe Manchin III
Governor

Frank Jezioro
Director

July 25, 2005

Mr. Mike Clester
Dream Mountain Ranch – Wildlife Manager
Route 2, Box 330
Albright, WV 26519

Dear Mr. Clester:

Thank you for providing comments on Legislative Rule 58-CSR64 – Miscellaneous Permits and Licenses recently filed by the West Virginia Division of Natural Resources that establishes certain terms and conditions for all captive cervid facilities in the state (e.g., inventory, record keeping and marking of animals, minimum standards for captive cervid facilities including fence design and construction, disease testing and monitoring requirements for animals including testing for Chronic Wasting Disease (CWD) and other transmissible diseases, etc.). This rule has been prepared to address the emerging and ongoing risks associated with captive cervid facilities and the potential for exposing the state's wild deer population to CWD infection.

The West Virginia Division of Natural Resources welcomes comments from the public on its various management programs and appreciates your interest in this important issue. We are pleased to receive your comments as they relate to this rule, and we will take these comments under advisement and consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Curt I. Taylor".

Curtis I. Taylor, Chief
Wildlife Resources Section

CIT/s

cc: Billie Shearer

MIKE CLESTER
ROUTE 2, BOX 330

Albright, WV 26519
240-321-1286 cell

July 21, 2005

Mr. Curtis Taylor
WV DNR
Wildlife Resources Sec.
State Capitol Colplex
Building 3, Room 812
1900 Kanawha Blvd., E
Charleston, WV 25305

Dear Mr. Taylor,

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 youth antlerless 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
Dream Mountain Ranch- Wildlife Manager





DIVISION OF NATURAL RESOURCES

Wildlife Resources Section
Capitol Complex, Building 3, Room 812
1900 Kanawha Boulevard, East
Charleston WV 25305-0664
Telephone (304) 558-2771
Fax (304) 558-3147
TDD (304) 1-800-354-6087

Joe Manchin III
Governor

Frank Jezioro
Director

July 21, 2005

Mr. Lysle R. Sites
Cave Mountain Ranch, LLC
HC 33 Box 984
Petersburg, West Virginia 26847

Dear Mr. Sites:

Thank you for contacting Governor Joe Manchin and providing comment on Legislative Rules 58CSR64 – Miscellaneous Permits and Licenses recently filed by the West Virginia Division of Natural Resources that establishes certain terms and conditions for all captive cervid facilities in the state (e.g., inventory, record keeping and marking of animals, minimum standards for captive cervid facilities including fence design and construction, disease testing and monitoring requirements for animals including testing for Chronic Wasting Disease (CWD) and other transmissible diseases, etc.). This rule has been prepared to address the emerging and ongoing risks associated with captive cervid facilities and the potential for exposing the state's wild deer population to CWD infection.

The West Virginia Division of Natural Resources welcomes comments from the public on its various management programs and appreciates your interest in this important issue. We are pleased to receive your comments as they relate to this rule, and we will take these comments under advisement and consideration.

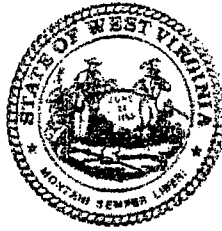
Sincerely,

A handwritten signature in cursive script that reads "Frank Jezioro".

Frank Jezioro
Director

cc: Billie Shearer

Date: _____



5-27

Office of the Governor
State Capitol
1900 Kanawha Blvd., East
Charleston, WV 25305

State of West Virginia
Joe Manchin III
Governor

Telephone: (304) 558-2000
Toll Free: 1-888-438-2731
FAX: (304) 342-7025
www.wv.gov.org

CONSTITUENT SERVICES REQUEST

TO: ***Frank Jezioro, Director***
Division of Natural Resources

FROM: Jason Williams
Constituent Services Caseworker
558-3856

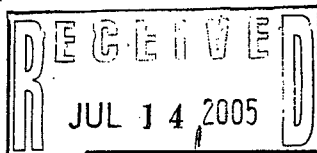
DATE: July 15, 2005

RE: ***Lysle R. Sites***
Owner/Operator
Cave Mountain Ranch

COMMENT: Lysle Sites has contacted the Governor's Office for assistance. Mr. Sites is very concerned about proposed amendments to Rule #64.

Any direction you can provide in this matter is requested. Please respond to the constituent's letter and forward a copy of any correspondence to Jason Williams. Thank you.

PLEASE RESPOND AS QUICKLY AS POSSIBLE



Cave Mountain Ranch, LLC

File [Signature]
By [Signature]
Received 7/21/599
Log 2106812

July 13, 2005

The Honorable Joe Manchin, III
Capitol Complex, Building 3, Room 812
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305-0664

Governor Manchin:

First I would like to let you know that not only did I vote for you, I also campaigned for you, believing as I still do that you believe private enterprise is a good thing and as such should be supported. I am writing to you concerning the Department of Natural Resources proposed amendments to Rule #64. I am a farmer with over one million invested in farming but if the Department of Natural Resources has Rule #64 amended as written at this time not only will they put me out of business; they will also add an additional financial cost that I will be responsible for and which could potentially be devastating to my farming business. All of this is being done in the name of Chronic Wasting Disease which while it did originate in a captive cervid herd, the herd was captured from the wild in Colorado and held with sheep infected with Scrapie by state officials. Most, if not all cases, can be traced back to this herd and let me say as a cervid farmer, although I also have other animals, that to my knowledge no cervids have been imported into the state by any cervid farmer since that time. But having said that, no one is worried more than me of any infection in our cervids and as such we started our own inspections and testing by a licensed veterinary over three years ago. While every cervid may not be tested for Chronic Wasting Disease, any cervid dying of unknown causes is tested by most cervid farmers for Chronic Wasting Disease. While we agree that this is a serious matter and more needs to be done, it has to be based on science. While no deer has been brought into the state by cervid farmers; how many have been killed in other states such as Colorado and transported back to West Virginia. This is a case based on science where they are more dangerous dead than alive.

In closing I would like to thank you for your valuable time and make you aware that we are not captive cervid facility owners but since none of our cervids came from the wild we are cervid farmers.

CAVE MOUNTAIN RANCH

Lysle R. Sites
Owner/Operator

HC 33 Box 984
Petersburg, West Virginia 26847
(304) 257-1432
lsites@beaconnet.net



DIVISION OF NATURAL RESOURCES

Wildlife Resources Section
Capitol Complex, Building 3, Room 812
1900 Kanawha Boulevard, East
Charleston WV 25305-0664
Telephone (304) 558-2771
Fax (304) 558-3147
TDD (304) 1-800-354-6087

Joe Manchin III
Governor

Frank Jezloro
Director

July 25, 2005

Mr. Arthur Mullins, President
West Virginia Wildlife Federation
PO Box 275
Paden City, WV 26159

Dear Mr. Mullins:

Thank you for providing comments on Legislative Rule 58-CSR64 – Miscellaneous Permits and Licenses recently filed by the West Virginia Division of Natural Resources that establishes certain terms and conditions for all captive cervid facilities in the state (e.g., inventory, record keeping and marking of animals, minimum standards for captive cervid facilities including fence design and construction, disease testing and monitoring requirements for animals including testing for Chronic Wasting Disease (CWD) and other transmissible diseases, etc.). This rule has been prepared to address the emerging and ongoing risks associated with captive cervid facilities and the potential for exposing the state's wild deer population to CWD infection.

The West Virginia Division of Natural Resources welcomes comments from the public on its various management programs and appreciates your interest in this important issue. We are pleased to receive your comments as they relate to this rule, and we will take these comments under advisement and consideration.

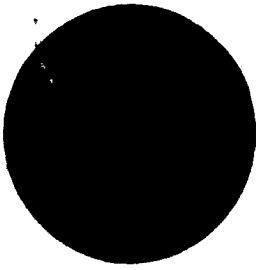
Sincerely,

A handwritten signature in black ink, appearing to read "Curtis I. Taylor".

Curtis I. Taylor, Chief
Wildlife Resources Section

CIT/s

cc: Billie Shearer



WEST VIRGINIA WILDLIFE FEDERATION

P.O. Box 275
Paden City, WV 26159



July 19, 2005

Mr. Curtis I. Taylor, Chief
West Virginia Division of Natural Resources
Wildlife Resources Section
Capitol Complex
Building 3, Room 812
Charleston WV 25305

Dear Mr. Taylor:

The West Virginia Wildlife Federation strongly supports the West Virginia Division of Natural Resources' filing of proposed rules on Miscellaneous Permits and Licenses, specifically Administrative Rule 58CSR64, relating to captive Cervid licenses.

Concerns relating to Chronic Wasting Disease (CWD) and the potential risks to our deer herd and deer hunting make the filing of these rules absolutely necessary. As you know CWD has spread from the western states to the mid-west and recently to New York. Evidence strongly indicates that the method of spread of the disease is through the movement of deer in captive Cervid pens. Many states have failed to implement regulations that could have stopped CWD because their legislators failed to see the risks associated with the disease.

As you know there are 250 thousand deer hunters in West Virginia and deer hunting generates more than \$250 million dollars in economic benefits to the state. If deer hunting, a mountain state tradition, is to continue we must stop CWD. The first line of defense must be by stopping captive Cervid herd owners from spreading the disease.

Since CWD can not be tested in live animals, the only logical method of stopping the spread of CWD is by limiting the movement of captive Cervids until inventoried and marked animals have exceeded the 60 month incubation period of the disease. During this interim period, the captive Cervids must be well secured in pens and all dead captive animals tested for CWD.



Mr. Curtis I. Taylor, Chief
July 19, 2005
Page 2

Once again, we strongly support your implementation of the proposed rules, and we would also encourage a moratorium on new captive Cervid pens. We are looking forward to the legislature's adoption of these rules and believe they will act prudently in this manner.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Arthur Mullins", with a stylized flourish at the end.

Arthur Mullins, President
West Virginia Wildlife Federation



DIVISION OF NATURAL RESOURCES

Wildlife Resources Section
Capitol Complex, Building 3, Room 812
1900 Kanawha Boulevard, East
Charleston WV 25305-0664
Telephone (304) 558-2771
Fax (304) 558-3147
TDD (304) 1-800-354-6087

Joe Manchin III
Governor

Frank Jezioro
Director

July 21, 2005

Mr. Joe Calvert
Director - District 4
West Virginia Wildlife Federation
P.O. Box 26
Crab Orchard, West Virginia 25827

Dear Mr. Calvert:

Thank you for providing comment on Legislative Rule 58CSR64 – Miscellaneous Permits and Licenses recently filed by the West Virginia Division of Natural Resources that establishes certain terms and conditions for all captive cervid facilities in the state (e.g., inventory, record keeping and marking of animals, minimum standards for captive cervid facilities including fence design and construction, disease testing and monitoring requirements for animals including testing for Chronic Wasting Disease (CWD) and other transmissible diseases, etc.). This rule has been prepared to address the emerging and ongoing risks associated with captive cervid facilities and the potential for exposing the state's wild deer population to CWD infection.

The West Virginia Division of Natural Resources welcomes comments from the public on its various management programs and appreciates your interest in this important issue. We are pleased to receive your comments as they relate to this rule, and we will take these comments under advisement and consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Paul R. Johansen", is written over a horizontal line.

Paul R. Johansen, Assistant Chief
In Charge of Game Management

cc: Billie Shearer ✓

Curtis I. Taylor
West Virginia Division of Natural Resources
Wildlife Resources Section
State Capitol Complex, Building 3, Room 812
Charleston, West Virginia 25305

Dear Mr. Taylor:

We very strongly support the West Virginia Division of Natural Resources' proposed Rule 58CSR64, concerning Captive Cervid Facility licenses.

Chronic Wasting Disease (CWD) has been found in many states to our west and now as far east as the state of New York. It has advanced to the east slowly by way of nature, and quickly by way of interstate highways through transportation of captive deer and elk herds to "deer farms"; often jumping 2 or more states along with the Mississippi River. If CWD ever crosses the species barrier and infects domestic livestock, the consequences would be horrific!

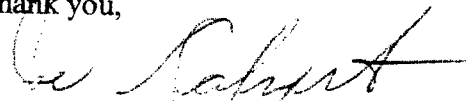
Bovine Tuberculosis (TB) is another disease we feel we need to be concerned with. The state of Michigan has experienced a serious problem, both in their cattle and deer herds. Scientists, biologists, and veterinarians have determined that the likely cause of bovine TB infection in Michigan's wild white-tail deer is from the congregating in artificially high numbers at feed sites. Michigan has now placed a ban on feeding and baiting in the affected areas. The goal of the state of Michigan is to eradicate the diseases. The common sense goal in the state of West Virginia, we hope, is to attempt to prevent the CWD and TB epidemics from ever infecting our state to start with!

Captive Cervid Facilities licensed before the effective date of these proposed rules, (7.4.4.), have until January 1, 2008 to comply. We feel this is an excessive amount of time and January 1, 2007 would be more reasonable.

Chapter 20-2-3 of the West Virginia Code states; the ownership of and title to all wild animals is declared to be in the state, as trustee for the people. Should the state ever issue a permit or license to allow any wild animal to be privately held captive for commercial or personal reasons is a very legitimate question. We would support a total ban on all captive wildlife facilities. We would further support prohibiting the feeding of deer for recreational and supplemental feeding and to prohibit the use of bait or feed material for the purpose of hunting any game animal on both private and public lands.

That being said, we still strongly support the proposed rules and would also support a moratorium on new Captive Cervid Facilities.

Thank you,



Joe Calvert, Director District 4
West Virginia Wildlife Federation

cc: Paul Johansen

Billie Shearer

From: Paul Johansen
Sent: Friday, July 15, 2005 9:31 AM
To: 'BigCNov15th@wmconnect.com'
Cc: Billie Shearer
Subject: Miscellaneous Permits and Licenses - 58CSR64

Dear Sirs,

Thank you for providing comment on Legislative Rule 58CSR64 – Miscellaneous Permits and Licenses recently filed by the West Virginia Division of Natural Resources that establishes certain terms and conditions for all captive cervid facilities in the state (e.g., inventory, record keeping and marking of animals, minimum standards for captive cervid facilities including fence design and construction, disease testing and monitoring requirements for animals including testing for Chronic Wasting Disease (CWD) and other transmissible diseases, etc.). This rule has been prepared to address the emerging and ongoing risks associated with captive cervid facilities and the potential for exposing the state's wild deer population to CWD infection.

The West Virginia Division of Natural Resources welcomes comments from the public on its various management programs and appreciates your interest in this important issue. We are pleased to receive your comments as they relate to this rule, and we will take these comments under advisement and consideration.

Paul R. Johansen, Assistant Chief
In Charge of Game Management

Billie Shearer

From: BigCNov15th@wmconnect.com
Sent: Thursday, July 14, 2005 9:55 PM
To: Wildlife Resouces General Mailbox
Subject: CWD

I agree with the management of control deer farms, for the control of spreading of this cwd among the wild deer herds. They should be tested if they are selling to the public.

Billie Shearer

From: Robert Fala [bfala@hotmail.com]
Sent: Wednesday, July 13, 2005 8:38 PM
To: Wildlife Resouces General Mailbox
Subject: CWD/Emergency Rules Package Comments

Mr.. Curtis Taylor, Chief Wildlife Resources;

As the Outdoors columnist for the Logan (WV) Banner the past 17 years and a certified wiildlife biologist, please accept my comments in support of the emergency rules at 58CSR64. Due to the incalculable aesthetic, economic and recreational values of the white-tailed deer in West Virginia, some reasonable measures and protections in the prevention of the dreaded chronic wasting disease are well justified. Thank you for this opportunity to comment.

Billie Shearer

From: Paul Johansen
Sent: Tuesday, July 12, 2005 1:34 PM
To: 'John.Jett@mail.wvu.edu'
Cc: Billie Shearer
Subject: Miscellaneous Permits and Licenses - 58CSR64

Dear Dr. Jett,

Thank you for providing comment on Legislative Rule 58CSR64 – Miscellaneous Permits and Licenses recently filed by the West Virginia Division of Natural Resources that establishes certain terms and conditions for all captive cervid facilities in the state (e.g., inventory, record keeping and marking of animals, minimum standards for captive cervid facilities including fence design and construction, disease testing and monitoring requirements for animals including testing for Chronic Wasting Disease (CWD) and other transmissible diseases, etc.). This rule has been prepared to address the emerging and ongoing risks associated with captive cervid facilities and the potential for exposing the state's wild deer population to CWD infection.

The West Virginia Division of Natural Resources welcomes comments from the public on its various management programs and appreciates your interest in this important issue. We are pleased to receive your comments as they relate to this rule, and we will take these comments under advisement and consideration.

Paul R. Johansen, Assistant Chief
In Charge of Game Management

7/12/2005

Billie Shearer

From: Paul Johansen
Sent: Thursday, July 14, 2005 2:49 PM
To: 'bfala@hotmail.com'
Cc: Billie Shearer
Subject: Miscellaneous Permits and Licenses - 58CSR64

Dear Mr. Fala,

Thank you for providing comment on Legislative Rule 58CSR64 – Miscellaneous Permits and Licenses recently filed by the West Virginia Division of Natural Resources that establishes certain terms and conditions for all captive cervid facilities in the state (e.g., inventory, record keeping and marking of animals, minimum standards for captive cervid facilities including fence design and construction, disease testing and monitoring requirements for animals including testing for Chronic Wasting Disease (CWD) and other transmissible diseases, etc.). This rule has been prepared to address the emerging and ongoing risks associated with captive cervid facilities and the potential for exposing the state's wild deer population to CWD infection.

The West Virginia Division of Natural Resources welcomes comments from the public on its various management programs and appreciates your interest in this important issue. We are pleased to receive your comments as they relate to this rule, and we will take these comments under advisement and consideration.

Paul R. Johansen, Assistant Chief
In Charge of Game Management

Billie Shearer

From: John Jett [John.Jett@mail.wvu.edu]
Sent: Tuesday, July 12, 2005 1:13 PM
To: Wildlife Resouces General Mailbox
Subject: CWD

Att. Curtis Taylor

I am in strong support of emergency rule 58CSR64 concerning regulations of deer farms and deer pens in WV.

John W. Jett, Ph.D
2088 Ag. Sciences Bldg.
P.O. Box 6108
Morgantown WV 26506-6108
304/293-6131 ext. 4224
Fax: 304/293-6954
<http://www.wvu.edu/~agexten/hortcult/index.html>

7/12/2005

Billie Shearer

From: Paul Johansen
Sent: Tuesday, July 12, 2005 1:38 PM
To: 'rgsbank@adelphia.net'
Cc: Billie Shearer
Subject: Miscellaneous Permits and Licenses - 58CSR64

Dear Mr. Banker,

Thank you for providing comment on Legislative Rule 58CSR64 – Miscellaneous Permits and Licenses recently filed by the West Virginia Division of Natural Resources that establishes certain terms and conditions for all captive cervid facilities in the state (e.g., inventory, record keeping and marking of animals, minimum standards for captive cervid facilities including fence design and construction, disease testing and monitoring requirements for animals including testing for Chronic Wasting Disease (CWD) and other transmissible diseases, etc.). This rule has been prepared to address the emerging and ongoing risks associated with captive cervid facilities and the potential for exposing the state's wild deer population to CWD infection.

The West Virginia Division of Natural Resources welcomes comments from the public on its various management programs and appreciates your interest in this important issue. We are pleased to receive your comments as they relate to this rule, and we will take these comments under advisement and consideration.

Paul R. Johansen, Assistant Chief
In Charge of Game Management

Billie Shearer

From: Mark Banker [rgsbank@adelphia.net]
Sent: Tuesday, July 12, 2005 9:48 AM
To: Wildlife Resouces General Mailbox
Subject: Chronic wasting disease

The Ruffed Grouse Society supports reasonable measures via rule-making to insure that chronic wasting disease is not introduced into WV via captive deer. The Wildlife Resources Section should be given the authority it needs to insure that businesses that use captive deer are not responsible for the introduction of CWD similar to other states. The importance of deer economically and recreationally can hardly be overstated and great care should be taken to protect this valuable resource.

Mark Banker
Regional Biologist
Central/Southern Appalachians
Ruffed Grouse Society

"There are two kinds of hunting: ordinary hunting and ruffed grouse hunting" - Aldo Leopold, *A Sand County Almanac*

Letter content was scanned
No threat detected
www.winantivirus.com



Billie Shearer

From: Paul Johansen
Sent: Tuesday, July 12, 2005 9:20 AM
To: 'RobChurch@consolenergy.com'
Cc: Billie Shearer
Subject: Miscellaneous Permits and Licenses - 58CSR64

Mr. Church,

Thank you for providing comment on Legislative Rule 58CSR64 – Miscellaneous Permits and Licenses recently filed by the West Virginia Division of Natural Resources that establishes certain terms and conditions for all captive cervid facilities in the state (e.g., inventory, record keeping and marking of animals, minimum standards for captive cervid facilities including fence design and construction, disease testing and monitoring requirements for animals including testing for Chronic Wasting Disease (CWD) and other transmissible diseases, etc.). This rule has been prepared to address the emerging and ongoing risks associated with captive cervid facilities and the potential for exposing the state's wild deer population to CWD infection.

The West Virginia Division of Natural Resources welcomes comments from the public on its various management programs and appreciates your interest in this important issue. We are pleased to receive your comments as they relate to this rule, and we will take these comments under advisement and consideration.

Paul R. Johansen, Assistant Chief
In Charge of Game Management

Billie Shearer

From: Church, Rob [RobChurch@consolenergy.com]
Sent: Tuesday, July 12, 2005 7:22 AM
To: Wildlife Resouces General Mailbox
Subject: CWD

Attention: Curtis Taylor,

As a WV sportsman I strongly encourage and support passage of rule 58CSR 64 concerning the regulation of deer farms and deer pens in WV.

Sincerely Yours,
Robert Church

Billie Shearer

From: Paul Johansen
Sent: Tuesday, July 12, 2005 9:22 AM
To: 'ljustice2004@verizon.net'
Cc: Billie Shearer
Subject: Miscellaneous Permits and Licenses - 58CSR64

Dear Mr. Justice,

Thank you for providing comment on Legislative Rule 58CSR64 – Miscellaneous Permits and Licenses recently filed by the West Virginia Division of Natural Resources that establishes certain terms and conditions for all captive cervid facilities in the state (e.g., inventory, record keeping and marking of animals, minimum standards for captive cervid facilities including fence design and construction, disease testing and monitoring requirements for animals including testing for Chronic Wasting Disease (CWD) and other transmissible diseases, etc.). This rule has been prepared to address the emerging and ongoing risks associated with captive cervid facilities and the potential for exposing the state's wild deer population to CWD infection.

The West Virginia Division of Natural Resources welcomes comments from the public on its various management programs and appreciates your interest in this important issue. We are pleased to receive your comments as they relate to this rule, and we will take these comments under advisement and consideration.

Paul R. Johansen, Assistant Chief
In Charge of Game Management

7/12/2005

Billie Shearer

From: LORI JUSTICE [ljustice2004@verizon.net]
Sent: Monday, July 11, 2005 6:18 PM
To: Wildlife Resouces General Mailbox
Subject: attention: curtis taylor deer regulations

I am writing in regard to rule 58CSR64 concerning regulations of deer farms and deer pens. I support this rule and feel strongly that steps should be taken to prevent Chronic Wasting Disease spreading into West Virginia.

Jared Samuel Justice
Pecks Mill, WV

7/12/2005

Billie Shearer

From: Paul Johansen
Sent: Tuesday, July 12, 2005 9:25 AM
To: 'Rahaldeman@aol.com'
Cc: Billie Shearer
Subject: Miscellaneous Permits and Licenses - 58CSR64

Dear Mr. Haldeman,

Thank you for providing comment on Legislative Rule 58CSR64 – Miscellaneous Permits and Licenses recently filed by the West Virginia Division of Natural Resources that establishes certain terms and conditions for all captive cervid facilities in the state (e.g., inventory, record keeping and marking of animals, minimum standards for captive cervid facilities including fence design and construction, disease testing and monitoring requirements for animals including testing for Chronic Wasting Disease (CWD) and other transmissible diseases, etc.). This rule has been prepared to address the emerging and ongoing risks associated with captive cervid facilities and the potential for exposing the state's wild deer population to CWD infection.

The West Virginia Division of Natural Resources welcomes comments from the public on its various management programs and appreciates your interest in this important issue. We are pleased to receive your comments as they relate to this rule, and we will take these comments under advisement and consideration.

Paul R. Johansen, Assistant Chief
In Charge of Game Management

7/12/2005

Billie Shearer

From: Rahaldeman@aol.com
Sent: Monday, July 11, 2005 6:57 PM
To: Wildlife Resouces General Mailbox
Subject: support for rule 58CSR64

Att: Curtis Taylor-----Chief of Wildlife, I am in support of rule 58CSR64, regarding regulations of deer farms and deer pens. Thank you, Rick Haldeman

7/12/2005

Billie Shearer

From: Paul Johansen
Sent: Tuesday, July 05, 2005 2:32 PM
To: 'gjcarp@butler-bremer.com'
Cc: Billie Shearer
Subject: Miscellaneous Permits and Licenses - 58CSR64

Dear Mr. Carpenter:

Thank you for providing comment on Legislative Rule 58CSR64 – Miscellaneous Permits and Licenses recently filed by the West Virginia Division of Natural Resources that establishes certain terms and conditions for all captive cervid facilities in the state (e.g., inventory, record keeping and marking of animals, minimum standards for captive cervid facilities including fence design and construction, disease testing and monitoring requirements for animals including testing for Chronic Wasting Disease (CWD) and other transmissible diseases, etc.). This rule has been prepared to address the emerging and ongoing risks associated with captive cervid facilities and the potential for exposing the state's wild deer population to CWD infection.

The West Virginia Division of Natural Resources welcomes comments from the public on its various management programs and appreciates your interest in this important issue. We are pleased to receive your comments as they relate to this rule, and we will take these comments under advisement and consideration.

Paul R. Johansen, Assistant Chief
In Charge of Game Management

7/11/2005

Billie Shearer

From: Sherri Young on behalf of Wildlife Resources General Mailbox
Sent: Tuesday, July 05, 2005 1:29 PM
To: Paul Johansen; Billie Shearer
Subject: FW: proposed rule changes

Sherri Young
West Virginia Division of Natural Resources
Capitol Complex, Building 3, Room 816
1900 Kanawha Boulevard, East
Charleston, WV 25305
304/558-2771

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

From: Gaylen and Jody Carpenter [mailto:gjcarp@butler-bremer.com]
Sent: Sunday, July 03, 2005 2:19 PM
To: Wildlife Resources General Mailbox
Subject: proposed rule changes

I am writing to comment on the proposed rules for the deer farms with in the state of West Virginia. Upon review of the proposed rules, I feel that they are unreasonably over regulating. I find it hard to believe that anyone raising any form of livestock could comply with them.

Size and acreage requirements should be left up to the individual deer farm owner. Are there size requirements in place for the sheep, cattle, swine, and poultry industries.?

Daily removal of fecal waste out of pens is ridiculous. Who has the time to follow every deer around to remove waste. Urine and fecal waste, and soils exposed to these waste materials must not be disposed where it may be exposed to free ranging whitetail deer. The best way to prevent these wastes from coming in contact from free ranging whitetail deer would be as simple as leaving it within the enclosures.

Most of the deer farmers that I know of do everything they can to prevent disease, and frequently worm them from parasites. Vaccinating and worming though should be left up to the owners not the state government agencies. Are the cattle, swine, sheep, and poultry industries told when and how to keep their animals free from disease and parasites?

If you are requiring double fencing of deer farms who is going to pay for it? These additional expenses for regulations that are required by the state of West Virginia should not fall solely on the deer farmer.

Section 7.4.22 states that no animals or genetic material maybe received by captive Cervid facility that have originated or been house with animals originating from a state that has a confirmed CWD or TB positive cervid in the last 60 months. There is no scientific evidence that CWD can be transmitted through semen. Semen sales should be allowed no matter where it comes from. Are you going to limit the semen sales for cattle from states where they have had confirmed cases of BSE? Restrictions should be placed on genetic material (antlers, bones, meat, etc.) on hunter harvested free ranging cervids from CWD positive states. Any free ranging cervid that is killed in West Virginia should also be tested for CWD before it crosses any state lines.

If there is no approved live animal test available there is no need for vets to take any samples before they need to be moved.

7/11/2005

Enrollment in a TB testing program should be left up to the individual.

In closing many of these rules are unnecessary. These rules are being made to protect the states wild deer, but who will protect the deer farms deer from the untested, unvaccinated, unwormed, and potentially disease carrying wild free ranging deer? Use science as your guide when making rules associated with CWD, not fears and misconceptions. I urge you to talk to and work with the deer farmers in you state to come up with more reasonable methods of regulation to protect the deer on both sides of the fence.

Sincerely,

Gaylen Carpenter

Deer Farmer

7/11/2005

Billie Shearer

From: Paul Johansen
Sent: Monday, July 11, 2005 3:08 PM
To: 'mags@sunlitsurf.com'
Cc: Billie Shearer
Subject: Miscellaneous Permits and Licenses - 58CSR64

Dear Mr. Riffe,

Thank you for providing comment on Legislative Rule 58CSR64 – Miscellaneous Permits and Licenses recently filed by the West Virginia Division of Natural Resources that establishes certain terms and conditions for all captive cervid facilities in the state (e.g., inventory, record keeping and marking of animals, minimum standards for captive cervid facilities including fence design and construction, disease testing and monitoring requirements for animals including testing for Chronic Wasting Disease (CWD) and other transmissible diseases, etc.). This rule has been prepared to address the emerging and ongoing risks associated with captive cervid facilities and the potential for exposing the state's wild deer population to CWD infection.

The West Virginia Division of Natural Resources welcomes comments from the public on its various management programs and appreciates your interest in this important issue. We are pleased to receive your comments as they relate to this rule, and we will take these comments under advisement and consideration.

Paul R. Johansen, Assistant Chief
In Charge of Game Management

7/11/2005

Billie Shearer

From: mags@sunlitsurf.com
Sent: Saturday, July 09, 2005 6:45 AM
To: Wildlife Resouces General Mailbox
Subject: Chronic Wasting Disease

Attn: Curtis Taylor

As a West Virginia DNR Commissioner, I strongly support very careful management of our West Virginia deer herd. In particular, I think it mandatory that the DNR obtain and maintain close legal regulation and management practices authorities of deer farm and deer pens in West Virginia including the movements of deer into and out of such facilities.

Having lived in Wisconsin for seven years and witnessed the tremendous loss of hunting opportunities and subsequent revenue losses to the state due to serious disease outbreaks in the Wisconsin deer herd, it is only prudent that West Virginia carefully regulate and monitor all types of deer management and husbandry activities in West Virginia

Also, having been the supervisor of wildlife research for the U.S. Fish and Wildlife Service for three years, I recognize that if chronic wasting disease were to be introduced into the West Virginia deer herd, there probably would be no feasible option other than to attempt to destroy an entire segment of the deer herd in an effort to stop the spread of the disease to an even larger portion of the state's deer herd.

Jan Riffe

DNR Commissioner

Billie Shearer

From: Paul Johansen
Sent: Monday, July 11, 2005 3:05 PM
To: 'dmilne@juno.com'
Cc: Billie Shearer
Subject: Miscellaneous Permits and Licenses - 58CSR54

Dear Mr. Milne,

Thank you for providing comment on Legislative Rule 58CSR64 – Miscellaneous Permits and Licenses recently filed by the West Virginia Division of Natural Resources that establishes certain terms and conditions for all captive cervid facilities in the state (e.g., inventory, record keeping and marking of animals, minimum standards for captive cervid facilities including fence design and construction, disease testing and monitoring requirements for animals including testing for Chronic Wasting Disease (CWD) and other transmissible diseases, etc.). This rule has been prepared to address the emerging and ongoing risks associated with captive cervid facilities and the potential for exposing the state's wild deer population to CWD infection.

The West Virginia Division of Natural Resources welcomes comments from the public on its various management programs and appreciates your interest in this important issue. We are pleased to receive your comments as they relate to this rule, and we will take these comments under advisement and consideration.

Paul R. Johansen, Assistant Chief
In Charge of Game Management

7/11/2005

Billie Shearer

From: dmilne@juno.com
Sent: Saturday, July 09, 2005 1:41 PM
To: Wildlife Resouces General Mailbox
Subject: emergency rules.....attention curtis taylor

I totally support emergency rule 58CSR64 dealing with deer farms and pens in West Virginia. Without rules such as these and the strict enforcement of such, it will only be a matter of time before we have CWD in this state. Dave Milne

Billie Shearer

From: Paul Johansen
Sent: Monday, July 11, 2005 3:02 PM
To: 'wvgobbler@hotmail.com'
Cc: Billie Shearer
Subject: Miscellaneous Permits and Licenses - 58CSR64

Mr. Davis,

Thank you for providing comment on Legislative Rule 58CSR64 – Miscellaneous Permits and Licenses recently filed by the West Virginia Division of Natural Resources that establishes certain terms and conditions for all captive cervid facilities in the state (e.g., inventory, record keeping and marking of animals, minimum standards for captive cervid facilities including fence design and construction, disease testing and monitoring requirements for animals including testing for Chronic Wasting Disease (CWD) and other transmissible diseases, etc.). This rule has been prepared to address the emerging and ongoing risks associated with captive cervid facilities and the potential for exposing the state's wild deer population to CWD infection.

The West Virginia Division of Natural Resources welcomes comments from the public on its various management programs and appreciates your interest in this important issue. We are pleased to receive your comments as they relate to this rule, and we will take these comments under advisement and consideration.

Paul R. Johansen, Assistant Chief
In Charge of Game Management

7/11/2005

Billie Shearer

From: Harold Davis [wvgobbler@hotmail.com]
Sent: Sunday, July 10, 2005 10:41 AM
To: Wildlife Resouces General Mailbox

Curtis,

Just a note to let you know I strongly support 58CSR64 concerning regulations on deer farms and deer pens in WV. If I can be of help, please call.

Thanks.....Harold

Billie Shearer

From: Paul Johansen
Sent: Monday, July 11, 2005 3:00 PM
To: 'rodgerlundell@verizon.net'
Cc: Billie Shearer
Subject: Miscellaneous Permits and Licenses - 58CSR64

Mr. Lundell,

Thank you for providing comment on Legislative Rule 58CSR64 – Miscellaneous Permits and Licenses recently filed by the West Virginia Division of Natural Resources that establishes certain terms and conditions for all captive cervid facilities in the state (e.g., inventory, record keeping and marking of animals, minimum standards for captive cervid facilities including fence design and construction, disease testing and monitoring requirements for animals including testing for Chronic Wasting Disease (CWD) and other transmissible diseases, etc.). This rule has been prepared to address the emerging and ongoing risks associated with captive cervid facilities and the potential for exposing the state's wild deer population to CWD infection.

The West Virginia Division of Natural Resources welcomes comments from the public on its various management programs and appreciates your interest in this important issue. We are pleased to receive your comments as they relate to this rule, and we will take these comments under advisement and consideration.

Paul R. Johansen, Assistant Chief
In Charge of Game Management

7/11/2005

Billie Shearer

From: Rodger Lundell [rodgerlundell@verizon.net]
Sent: Saturday, July 09, 2005 9:14 AM
To: Wildlife Resouces General Mailbox
Subject: CWD.....

I am in favor of temporary restriction on the import of whitetail deer into WV. This matter is a decision for the wildlife specialist to inform the DNR director on and in his support I concur with his decision to place a mandatory stopping of the import of whitetail deer into West Virginia until our deer specialist agree it is safe to continue the practice.

Rodger Lundell
RGS/Member
304 472 7756

Billie Shearer

From: Rodger Lundell [rodgerlundell@verizon.net]
Sent: Sunday, July 10, 2005 10:00 PM
To: Wildlife Resouces General Mailbox
Subject: CWD

Mr Taylor, do not hesitate to place restrictions on bring deer across our state line. This CWD is not going to just go away so you need to act responsibly, take the initiative and stop the flow of deer across our state lines to protect our population.

Thank you for your service, dedication and professionalism.

Rodger Lundell
RGS/Member
Buckhannon, West Virginia
304 472 7756

July 11, 2005

Curtis I. Taylor, Chief
West Virginia Department of
Natural Resources, Wildlife Section
Building 3, Room 812
Charleston, West Virginia 25305

Dear Mr. Taylor:

I just finished reading the CWD report out of Wisconsin, and find it very discomfoting West Virginia has not placing a moratorium on out of state deer entering our state an ultimately our deer herd. It is imperative that you act fast to stop the practice until more is learned about this terrible disease, and a reasonable guarantee can be had that our herd is safe. Do it now or we'll be slaughtering deer like they have had to do in Wisconsin, what a waste.

Sincerely,



Rodger Lundell
RGS/Member
304 472 7756

106 Shawnee Dr.
Buckhannon, WV 26201



Billie Shearer

From: Paul Johansen
Sent: Monday, July 11, 2005 2:57 PM
To: 'tsal@vecchiobadger.com'
Cc: Billie Shearer
Subject: Miscellaneous Permits and Licenses - 58CSR64

Dear Mr. Sal,

Thank you for providing comment on Legislative Rule 58CSR64 – Miscellaneous Permits and Licenses recently filed by the West Virginia Division of Natural Resources that establishes certain terms and conditions for all captive cervid facilities in the state (e.g., inventory, record keeping and marking of animals, minimum standards for captive cervid facilities including fence design and construction, disease testing and monitoring requirements for animals including testing for Chronic Wasting Disease (CWD) and other transmissible diseases, etc.). This rule has been prepared to address the emerging and ongoing risks associated with captive cervid facilities and the potential for exposing the state's wild deer population to CWD infection.

The West Virginia Division of Natural Resources welcomes comments from the public on its various management programs and appreciates your interest in this important issue. We are pleased to receive your comments as they relate to this rule, and we will take these comments under advisement and consideration.

Paul R. Johansen, Assistant Chief
In Charge of Game Management

7/11/2005

Billie Shearer

From: Tom Sal [tsal@vecchiobadger.com]
Sent: Monday, July 11, 2005 8:49 AM
To: Wildlife Resouces General Mailbox
Subject: Emergency rule 58csr64 Attn. Curtis Taylor

July 11,2005
Mr Taylor:

I support emergency rule 58csr64 concerning regulations of deer farms and deer pens in WV. Our herd here in WV has been healthy and we want to keep it that way. I appreciate your attention to this matter and will support you in any way I can.

Thanks

Tom Sal

Thomas H. Sal
Vecchio, Badger and Co., CPAs
www.vecchiobadger.com
Phone: 304-296-1200
Fax: 304-296-1263
Email: tsal@vecchiobadger.com

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**Billie Shearer**

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**From:** Paul Johansen  
**Sent:** Monday, July 11, 2005 2:54 PM  
**To:** 'lmkessler@verizon.net'  
**Cc:** Billie Shearer  
**Subject:** Miscellaneous Permits and Licenses - 58CSR64

Dear Mr. Kessler,

Thank you for providing comment on Legislative Rule 58CSR64 – Miscellaneous Permits and Licenses recently filed by the West Virginia Division of Natural Resources that establishes certain terms and conditions for all captive cervid facilities in the state (e.g., inventory, record keeping and marking of animals, minimum standards for captive cervid facilities including fence design and construction, disease testing and monitoring requirements for animals including testing for Chronic Wasting Disease (CWD) and other transmissible diseases, etc.). This rule has been prepared to address the emerging and ongoing risks associated with captive cervid facilities and the potential for exposing the state's wild deer population to CWD infection.

The West Virginia Division of Natural Resources welcomes comments from the public on its various management programs and appreciates your interest in this important issue. We are pleased to receive your comments as they relate to this rule, and we will take these comments under advisement and consideration.

Paul R. Johansen, Assistant Chief  
In Charge of Game Management

7/11/2005

**Billie Shearer**

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**From:** Paul Johansen  
**Sent:** Monday, July 11, 2005 2:49 PM  
**To:** 'DaveTruban@consolenergy.com'  
**Cc:** Billie Shearer  
**Subject:** Miscellaneous Permits and Licenses - 58CSR64

Dear Mr. Truban,

Thank you for providing comment on Legislative Rule 58CSR64 – Miscellaneous Permits and Licenses recently filed by the West Virginia Division of Natural Resources that establishes certain terms and conditions for all captive cervid facilities in the state (e.g., inventory, record keeping and marking of animals, minimum standards for captive cervid facilities including fence design and construction, disease testing and monitoring requirements for animals including testing for Chronic Wasting Disease (CWD) and other transmissible diseases, etc.). This rule has been prepared to address the emerging and ongoing risks associated with captive cervid facilities and the potential for exposing the state's wild deer population to CWD infection.

The West Virginia Division of Natural Resources welcomes comments from the public on its various management programs and appreciates your interest in this important issue. We are pleased to receive your comments as they relate to this rule, and we will take these comments under advisement and consideration.

Paul R. Johansen, Assistant Chief  
In Charge of Game Management

**Billie Shearer**

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**From:** Larry Kessler [lmkessler@verizon.net]  
**Sent:** Monday, July 11, 2005 8:29 AM  
**To:** Wildlife Resouces General Mailbox  
**Subject:** Regs for Deer Pens

Dear Mr. Taylor,

I have been made aware of the situation regarding chronic wasting disease and and deer pens and support the close and strict regulation of pens here in West Virginia. Our deer herd does not need to be jeopardized by a few commercial enterprises who do not closely monitor the health of their animals. Please include me on any future mailings regarding the progress of emergency rule 55CSR64. Thank you for your support of our outdoor sporting activities.  
Larry A. Kessler, Lewisburg, WV

7/11/2005

**Billie Shearer**

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**From:** Truban, Dave [DaveTruban@consolenergy.com]  
**Sent:** Monday, July 11, 2005 11:13 AM  
**To:** Wildlife Resouces General Mailbox  
**Subject:** Cwd attn Curtis Taylor

Curtis I strongly support the emergency rule 58CSR64 concerning regulations of deer farms and deer pens in West Virginia. With the recent discovery of cwd in New York state we need to be on alert here. This too close home!

Thanks Dave Truban

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2005 OCT 21 A 10: 24  
OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

**SUMMARY OF COMMENTS AND ANSWERS ON EMERGENCY  
RULE 58CSR64**

The following questions and comments are from the comment period on Emergency Rule 58CSR64. There were 21 letters of support for the Emergency Rule including several sportsmen, the West Virginia Wildlife Federation, the National Wildlife Federation and two Natural Resources Commissioners. Fifteen deer farmers gave comments and criticism of the legislation. They included 9 in-state deer farmers; Oglebay Good Zoo; four out-of-state deer farmers and deer farm associations including comments from Pennsylvania, Ohio, Iowa and Wisconsin; and one deer farmer of unknown residence.

**QUESTIONS AND ANSWERS BY SECTION OF THE CODE TO WHICH THEY  
ADDRESS WITH ANSWERS IN ITALICS**

- 7.4.2 There were objections to a public hearing before a new captive cervid license can be issued. Comments were that the U.S.D.A. could better make the decision and the facility was privately owned; therefore, a public hearing was not warranted.

*Captive cervid facilities are documented to have caused the spread of diseases such as CWD to free-ranging deer populations. Since wildlife in West Virginia is the property of the state, held in trust for the people; a public hearing is appropriate.*

- 7.4.7 There were objections to double fencing including; No other state requires double fencing. It is too expensive. The space between fences doesn't allow room for mowing. There is no evidence that nose to nose contact transmits chronic wasting disease (CWD). Who will pay for double fencing? Typer on fences will prevent nose to nose contact.

*Studies have shown that wild deer often have nose to nose contact with captive cervids. Nose to nose contact is a suspected method of transmitting CWD from animal to animal. Fencing of these facilities is a small price compared to the cost of CWD management in the deer herd. DNR will work with landowners concerning mowing requirements between fences. A part of the rule was amended to allow the Director to issue exceptions to the required distance between the fences.*

- 7.4.8 There were objection to the size of cervid pens that no fence size is mandated for domestic livestock. Oglebay Zoo would like exemptions for different pen sizes for cervids other than those that have been documented to be susceptible to CWD. There were generally objections to a 10 foot fence as being to expensive to build. A deer could not jump it anyway. Deer go through and under fences more than over them. An 8 foot fence should be grandfathered.

*A ten foot fence is recommended by model legislation prepared by the Southeastern Association of Fish and Wildlife Agencies. White-tailed deer and elk are not domestic livestock. They are defined in West Virginia law as wildlife. The West Virginia Division of Natural Resources (DNR) cautions that susceptibility tests have not been made for*

*many species. Recently a hunter killed moose in Colorado diagnosed with CWD. White-tailed deer have been documented jumping even a 10 foot fence.*

- 7.4.13 General comments on waste disposal were that incineration and landfills were adequate for disposal. Wastes would better be disposed inside of the pen. Daily removal of waste is not necessary.

*High temperature incineration units are acceptable to dispose of deer carcasses and wastes as are properly engineered landfills. While daily removal of wastes is necessary in small pens it would not be necessary in larger pens. Short term disposal of wastes inside a large pen would be acceptable, provided the proposal is reviewed by the DNR.*

- 7.4.14 One farmer observed that co-mingling of deer and bison occurred at the W.V. Wildlife Center.

*This will be corrected in the near future.*

- 7.4.17 The general ban on importation of cervids in 58CSR63 received several comments. Kentucky elk have moved into West Virginia, but we can't import deer. Another farmer stated that no cervids have been imported by West Virginia deer farmers since CWD was discovered. There were concerns of restricting commerce between states. One comment was that DNR has failed to educate the taxidermist regarding importation of carcasses from CWD states. There were several people citing the NY case as being caused by taxidermist importing CWD infected cervids. West Virginia has not done anything about bringing hunter carcasses from CWD cervids. CWD is spread by hunter killed cervids and not captive cervid pens. Oglebay Zoo would like to import other cervids that are not susceptible to CWD.

*West Virginia has no authority or control over elk entering the state from Kentucky. We are, however, closely monitoring the situation. Kentucky is currently testing mortalities for CWD. Most if not all captive cervid facilities in West Virginia were established after the discovery of CWD in Colorado. The DNR is not restricting commerce between states. West Virginia is clearly legally obligated to protect the wildlife and associated recreation of this state by restricting imports of other wildlife. West Virginia has enacted carcass importation restrictions from CWD positive states. Hunter killed cervids are just one of the possible methods of spreading CWD. Wildlife disease specialists believe that CWD is likely spread by urine, feces, nasal discharges, saliva, or other body fluids.*

- 7.4.18 There were several comments concerning marking of animals. Tattoos of fawns would not be visible as adults. Tattoos require tranquilizing the animal. There are no tags made visible from 50 yards. You might as well paint the animal orange. Tags should conform to the National Animal Identification System (NAIS). A computer chip in the ear and an ear tag would be sufficient.

*West Virginia DNR recognizes that fawn marking may be difficult. This is a primary reason for the proposal to ban moving fawns. Fawns and other cervids could be marked with ear tags and radio frequency identification tags as described in the US Animal Identification Plan for domestic livestock. Livestock ear tags or radio tags could readily be identifiable at 50 yards.*

- 7.4.20 There were objections to prior approval to transfer cervids. One comment was that it is not necessary since the District Captain must be notified within 15 days of the transfer.

*Prior approval to transfer cervids is necessary since the West Virginia DNR must be able to determine if the transfer demonstrates an acceptable risk of transferring disease, and be able to track the cervids for an effective herd monitoring program.*

- 7.4.21 There were objections to a 60 month CWD free status of the herds because: the incubation period is 3 years and not 5 years; the DNR doesn't have a monitoring program, therefore, it is unrealistic to shut down movement. WV Deer Farmers provided information to DNR over 3 years ago and they still don't have a monitoring program. There were objections to the Director having the right to deny the transfer of cervids.

*The incubation period of CWD is at least 5 years and may be more. The DNR is proposing a monitoring program with this regulation that would likely meet the national standards of herd monitoring. The Director must have the authority to deny the transfer of cervids to have a viable program of wildlife disease prevention. This only applies to facilities permitted after January 1, 2005.*

- 7.4.22 Comments received on the ban of genetic material from a CWD positive state included a request to allow semen and the banning of cover scents and deer urine and that this ban would be devastating to hunters.

*Since the exact methods of transmitting the prion which causes CWD are not known at the present time, the transportation of semen and cover scents made from deer urine represent a risk to transmitting CWD. Since this ban is on CWD positive states only, the effect on hunters is likely to be minimal.*

- 7.4.23 There was an objection to the testing of all transferred cervids since DNR biologist were removing samples and they are not veterinarians.

*West Virginia DNR has trained many of its employees and several veterinarians to take CWD samples. DNR employees in general are better trained to take CWD samples than veterinarians who have not dealt with the disease. West Virginia DNR has received advice and training from Southeastern Cooperative Wildlife Disease Study personnel on CWD sampling techniques and other disease related matters.*

- 7.4.24 There were several comments objecting to the ban on moving fawns less than 6 months old, saying that this would be devastating to their business, it is the majority of their business, and that fawns are easier to move when they are young.

*Although fawns are easier to move than adult deer, fawns are difficult to mark, monitor and track. Therefore, the movement of fawns has been proposed to be restricted.*

- 7.4.26 There were several objections to liability of pen owners if CWD was discovered in their facility or liability to take care of escaped animals.

*Liability concerns were included in the regulations because of the huge sums of money necessary for wildlife agencies to control the disease. West Virginia DNR is largely funded by hunting and fishing license monies and this monetary burden should not be at the expense of other wildlife and fishery programs.*

- 7.4.29 The testing of cervids under 7.4.29 to 7.4.33 received several comments. Only animals that are sick need to be tested. Most cervid farmers test any dead animals. There is no approved live animal test for CWD; therefore, there is no need to test animals before transferring them.

*Since the incubation period of CWD is known to be up to five years, apparently healthy animals can have CWD. All CWD positive cases in West Virginia to date have been from apparently healthy animals. West Virginia DNR has very few records of tests from cervid pens. West Virginia DNR is proposing testing of all dead animals and not those that are being moved. These tests are necessary to establish that CWD does not occur in individual herds and would be the basis for movement of animals from certified herds. Five years of testing of all mortalities in a herd is necessary to confirm a disease free herd.*

- 7.8.19 There were comments on the ban of holding captive cervids under menagerie permits. The West Virginia Wildlife Center allows viewing of cervids so why not under a menagerie permit. It would be too expensive to build separate facilities to hold deer away from other animals in a menagerie.

*The West Virginia DNR proposed a ban on holding cervids under a menagerie permit since these animals are frequently moved in exhibits and represent a significant risk. Menagerie permits with cervids may apply for and hold cervids under a Captive Cervid License with appropriate guideline and regulations. The West Virginia Wildlife Center is monitoring their captive cervid population under strict guidelines and CWD management protocols. The holding of deer in the same pen as other wild animals is considered a risk because of the potential to introduce exotic disease into the captive deer from the other animals and as a potential to introduce new risks into free-ranging deer through escaped captive deer.*

**OTHER COMMENTS AND ANSWERS NOT SPECIFIC TO THE REGULATION  
WITH ANSWERS IN ITALICS**

1. Regulations should be by the Department of Agriculture since they have qualified disease people and captive cervids are livestock and not wild animals.

*West Virginia DNR is the regulatory agency for all wildlife in the state. White-tailed deer and elk are clearly defined as wildlife. West Virginia DNR has more expertise in wildlife diseases and the management of deer and elk than any other agency.*

2. We do not know if CWD is always fatal since there is no live animal test for it.

*There is no known case of an animal having CWD that recovered from the disease even though there is considerable experience with this disease in captive facilities.*

3. CWD is not a devastating disease as was once thought.

*CWD is clearly a devastating disease. The possible effects of the disease in high density eastern deer herds have not been determined, but scientific modeling suggests that there will be at least significant declines in deer populations as well as associated effects on deer hunters and wildlife viewers.*

4. CWD is an inconsequential part of a natural process.

*CWD is clearly an introduced disease. Its discovery and possible origin was in deer pens in Colorado and Wyoming.*

5. CWD has not devastated the deer and elk in Colorado and Wyoming.

*Elk appear to be less susceptible to the disease than deer. About 1-2% of the elk herd is infected in the endemic regions of Colorado and Wyoming. The percentage is higher in mule deer (1-9%). CWD prevalence in some winter ranges has been as high as 40%. There is much concern over the possibility of introduction of CWD into the wintering grounds of elk in Wyoming. As the disease has moved eastward into white-tailed deer the infection rate in some areas has been as high as 20% in a short time period. Over a period of many years it is projected that deer populations will be more seriously effected. Wisconsin studies indicate that if left unchecked CWD will substantially increase in prevalence to more than 40% of the herd statewide.*

6. West Virginia would not be drastically affected if CWD was found in the state.

*CWD has now been found in the State, and a significant amount of resources have already been delegated to combat the disease. The Wisconsin DNR stated that they have spent \$20 million on controlling the disease since 2002. Only time will tell if we are successful in stopping the spread of the disease. As we have anticipated hunters are gravely concerned over the possible consequences of the disease to the deer herd*

*and the possible risks of eating the meat from infected animals. Human dimension studies also indicate that the perceived value of the remaining animals would be diminished because of the risks associated with the disease.*

7. CWD infection rate in Wisconsin is .02% and evidence shows that the normal harvest rate would keep CWD under control.

*This is certainly not true in the endemic area. CWD infection in the core area of the endemic area in Wisconsin is 5% and in the center of the endemic area it is 8-12%.*

8. DNR has imported deer into WV.

*DNR imported deer into West Virginia before CWD was discovered and probably before the disease evolved.*

9. CWD could be in WV already.

*This statement has been found to be true. We do not know at this time the source of the disease in the state.*

10. Costs associated with implementing these regulations are prohibitive and would put many deer farmers out of business. Costs will have a devastating effect on the cervid industry. The costs of sampling each dead deer are devastating to the small business man.

*The regulations on captive cervid pens are well founded. Costs of the deer farmers as related to the total economic benefit of the free-ranging deer are only a minor costs. In West Virginia deer hunting generates over \$145 million in retail sales, \$233 million in economic benefits, \$8.5 million in sales and fuel taxes, and \$4.5 million in federal taxes. The losses to the state economy, not to mention the recreational benefits, of the deer herd clearly far exceed the expenditures of deer farmers.*

11. West Virginia does little testing of CWD in wild deer.

*West Virginia DNR has systematically tested free-ranging white-tailed deer for three years for CWD.*

12. The purpose of the rule is to eliminate deer farming in West Virginia.

*The purpose of the rule is to lower the risks of introducing CWD and other potentially devastating diseases such as TB to the free-ranging deer herd, and to provide common sense guidelines for managing captive cervid pens.*

13. It has never been proven that CWD is transmitted from captive cervids to the wild.

*Since the exact method of transmitting this disease has not been discovered, this is true. However, since the disease was first discovered in a captive cervid pen and later found in the wild, strong circumstantial evidence certainly exists. It has also been clearly demonstrated that CWD in the wild in other states and Canada have been associated with CWD in captive cervid pens.*

14. Wisconsin did not have a decline in hunters other than the natural decline in hunting. At the current level of infection only 2% of Wisconsin hunters said they would not hunt. In Illinois there was a 10% decline in hunting, but half of that was the natural decline in hunting.

*Declines in hunting following the discovery of CWD in deer herds have been documented in several states. In Wisconsin hunting declined 6% the first year following discovery of the disease. Short term hunting declines are probably not as relevant to the threat of CWD as compared to the possible long term consequences of the disease to the deer herd and its associated recreational benefits.*

15. There is no known cases of TB in captive white-tailed deer.

*White-tailed deer in captive pens in Michigan were documented to have TB. TB is currently in free-ranging white tailed deer in Michigan. There are no white-tailed deer facilities in West Virginia that meet TB Herd Accreditation Status.*

16. Disputes that there is no known live animal test for CWD and cites tonsil biopsy.

*A tonsil biopsy can be taken from a live deer and may reveal the presence of CWD. The biopsy is not as accurate as testing of brain stems and lymph nodes and is also not a practical alternative.*

17. The consumption of meat is not a risk for CWD and only the nerve and lymph tissue carry the disease.

*At the present time there is no evidence that CWD can be transmitted to humans. Hunters in CWD endemic areas are advised to avoid eating deer that appear to be sick, and avoid contact with brain, spinal cord, eyes, tonsils, lymph nodes, and spleen from carcasses of healthy appearing deer. Hunters should bone out deer meat to prevent contamination with spinal cord tissue and remove lymph nodes by removing the fat surrounding and between the muscles. Protective rubber or latex gloves should be worn while butchering deer.*

18. The requirements of these regulations are not based on science.

*These regulations are based on the best science currently available and have been closely coordinated with the Southeastern Cooperative Wildlife Disease Study, the most prestigious wildlife disease group in the Eastern United States.*

19. Where is the emergency since the importation of deer have been banned since 2002.

*Emergency regulations were necessary because of the discovery of chronic wasting disease in New York and the steady movement of the disease eastward in the last several years. Most states have banned imports of cervids but effective regulations must be in place to monitor the status and movement of cervids to insure that these bans are obeyed.*