

WEST VIRGINIA
SECRETARY OF STATE

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #3

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE
AND
FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**

AGENCY: Bureau of Commerce, Division of Natural Resources TITLE NUMBER: 58

CITE AUTHORITY SS 20-1-7(20), 20-1-7(30)

AMENDMENT TO AN EXISTING RULE: YES X NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 48A

TITLE OF RULE BEING AMENDED: Miscellaneous Permits and Licenses

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED:

TITLE OF RULE BEING PROPOSED:

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE FOR THEIR REVIEW.



Charles B. Felton, Jr.
Director

12.50

Circumstance Statements For Rules

§ 58-48A-1. General

-Changes Department to Division as per past reorganization of State agencies and adds the words "other terms and conditions" to better define the scope and purpose of these rules.

§ 58-48A-2. Definitions

-Separates the current license to operate a private game preserve into three categories; 1) The current commercial game farm license for buying, selling, and propagating wildlife not taken directly from the wild, 2) A new category for hound coursing\training pens for the purchase and transfer of live foxes and raccoons from the wild during trapping season for use in pen facilities, and 3) A new category for incorporated sportsmen clubs to purchase and transfer live foxes and raccoons from the wild for restocking purposes.

-Adds definitions of hound coursing\training pen, incorporated sportsmen club, legal trapper, and commercial dealer as these words relate to these regulations.

-Changes Department to Division and Division to Section as per past reorganization of State agencies.

-Adds the words "taken by the applicant" to better define the source of animals that can be acquired and maintain as pets and limit the risk of disease, especially rabies, to those person taking animals from the wild as pets.

§ 58-48A-3. Application Submission and Review

-Change Department to Division and Division to Section to reflect current State agency organization.

-Add a copy of the applicant's WV Business Registration Certificate to the items submitted with the license application necessary to sell wildlife.

§ 58-48A-4. Renewal of Issued Permits and Licenses

-Change Department to Division to reflect current State agency organization.

§ 58-48A-7. Penalties

-Change Department to Division to reflect current State agency organization.

FISCAL NOTE FOR PROPOSED RULE

Rule Title: Miscellaneous Permits and License

Type of Rule: X Legislative Interpretive Procedural

Agency: Division of Natural Resources

Address: State Capitol Complex
Building 3, Room 812
1900 Kanawha Blvd.
Charleston, WV 25305-6087

1. Effect of Proposed Rule

	ANNUAL		FISCAL YEAR		
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
ESTIMATED TOTAL COST	\$ 0	\$	\$	\$	\$ 0
PERSONAL SERVICES	0				0
CURRENT EXPENSE	0				0
REPAIRS & ALTERATIONS	0				0
EQUIPMENT	0				0
OTHER (LICENSE FEES)	\$1,000				0

2. Explanation of above estimates:

Estimated to generate 100 additional license at \$10 each.

3. Objectives of these rules:

Reduce the spread of wildlife diseases, (i.e. rabies) to native wildlife populations.

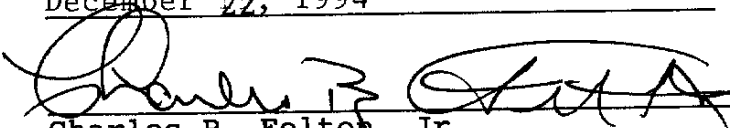
4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impacts on State government.
None

B. Economic Impact on Political Subdivisions; Specific Industries; Specific groups of Citizens.
None

C. Economic Impact on Citizens/Public at Large.
Requires Incorporated Sportsmens Clubs and Hound Coursing/Training Pens to obtain a permit to purchase live foxes from West Virginia trappers during the legal trapping season.

Date: December 22, 1994


 Charles B. Felton, Jr.
 Director

DATE: December 22, 1994

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: DIVISION OF NATURAL RESOURCES

LEGISLATIVE RULE TITLE: MISCELLANEOUS PERMITS AND LICENSES

1. Authorizing statute(s) citation § 20-1-7(20), 20-1-7(30)
2.
 - a. Date filed in State Register with Notice of Hearing
November 4, 1994
 - b. What other notice, including advertising, did you give the hearing?
30 Day Public Comment Period
 - c. Date of Hearing(s): N/A
 - d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.
Attached _____ No comments received X
 - e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing:
(be exact)
N/A
 - f. Name and phone number(s) of agency person(s) to contact for additional information:
Bernard F. Dowler, Chief
Wildlife Resources Section
State Capitol Complex
Building 3, Room 812
Charleston, WV 25305-6087
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.
N/A
 - b. Date of hearing: N/A
 - c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?
N/A
 - d. Attached findings and determinations and reasons:
N/A

SUMMARY OF PROPOSED RULE
CONCERNING
MISCELLANEOUS PERMITS AND LICENSES

The purpose of the legislative rule is to implement Senate Bill 337 by allowing the sale, within the state, of live red and gray foxes and raccoons taken during the legal trapping season and to reduce the spread of rabies to native wildlife population.

PREAMBLE TO A PROPOSED RULE
CONCERNING
MISCELLANEOUS PERMITS AND LICENSES

AGENCY: Bureau of Commerce, Division of Natural Resources

REGULATION: Title 58, Series 48A, "Miscellaneous Permits and Licenses".

ACTION: Filing of an proposed legislative rule.

SUMMARY: Amends current rule to allow for the sale within the state of live red and gray foxes and raccoons taken during the legal trapping season. Establishes new game farm license for hound coursing/training pens and incorporated sportsman club to allow for the purchase of legally trapped foxes and raccoons taken from the wild.

TITLE 58
LEGISLATIVE RULES
BUREAU OF COMMERCE
DIVISION OF NATURAL RESOURCES

SERIES 48A
MISCELLANEOUS PERMITS AND LICENSES

§58-48A-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. --

1.4. Effective Date. --

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

§58-48A-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 Article 2 of Chapter 20 of the W. Va. Code:

2.1.1. A license for the operation of a private game preserve for the propagation of wild animals or wild birds for commercial purposes (W. Va. Code §20-2-47). Three categories of this license will be issued by the Division:

2.1.1.a. Commercial game farm license. This license authorizes the holder to breed or raise such animals and birds as specified by the license, to sell the same dead or alive, or to sell the eggs of birds in accordance with the provisions of Division regulations governing the commercial sale of wildlife (58 C.S.R. 23). 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 these regulations 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 23 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 these regulations 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 23 Section 3 for the purpose of restocking.

2.1.2. A license for the operation of a private plant, pond, or business for the propagation, sale, or purchase of fish, frogs, turtles, or other forms of aquatic life for commercial purposes (W. Va. Code §20-2-48). This license authorizes the holder to breed or raise such species as specified by the license and to buy and sell the same dead or alive or the eggs thereof in accordance with the provisions of Division regulations governing the commercial sale of wildlife (58 C.S.R. 23). Two categories of this license will be issued by the Division:

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

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

2.1.3. A permit to keep and maintain in captivity as a pet a wild animal or wild bird that has been acquired from a commercial dealer or taken by the applicant during the legal open hunting or trapping season established under 58 C.S.R. 11 (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 delineated in appendix A of these regulations.

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 these regulations 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 these regulations.

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

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

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

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

2.14. "Hound Coursing/Training Pen" means a permanent enclosure of no less than forty (40) acres from which there is no

reasonable expectation of escape of the animals placed within.

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

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

§58-48A-3. Application Submission and Review.

3.1. Except as provided in Section 3.1.1 of these regulations, 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 these regulations.

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

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

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

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

§58-48A-4. Renewal of Issued Permits and Licenses.

4.1. Except as provided in Section 4.1.1 of these regulations, all permits and licenses issued under these regulations 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 (1) 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 these regulations.

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 these regulations may not be sold or transferred.

§58-48A-5. Record Keeping and Reporting.

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

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

§58-48A-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 these regulations.

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 regulation.

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

§58-48A-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 regulations governing the commercial sale of wildlife (58 C.S.R. 23).

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

7.1.12. Accurate and current records of all wildlife acquisitions and sales or possession transfer shall be maintained by the licensee. Records on all wildlife born at the licensee's facility shall also be maintained. All records shall be either typed or written in plain and legible English and shall include the full name, address and telephone number of each person with whom a wildlife transaction has been conducted. All records shall be

maintained by the licensee at the facility for a minimum period of three (3) years. In addition the licensee shall provide a bill of sale or document to each person who purchases or receives the licensee's wildlife. The bill of sale or document shall, at a minimum, contain the following information.

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

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

7.1.12.c. The date of the sale.

7.1.12.d. The purchaser's name and address.

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

7.1.13. A licensee's facility, records, or wildlife may be inspected by an authorized representative of the director, on a case by case basis, to assure compliance with all requirements mandated by statute or regulation 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. 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 Department regulations governing the commercial sale of wildlife (58 C.S.R. 23).

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 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 C.S.R. 23 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 regulation 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 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 Department regulations governing the commercial sale of wildlife (58 C.S.R. 23).

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 23 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. Fish Pond License. The following terms and conditions will apply for this license.

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

7.4.2. 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. 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. 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. The licensee must obey Division regulations governing the commercial sale of wildlife (47 C.S.R. 23).

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

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

7.5.1. The licensee must obey Division regulations governing the commercial sale of wildlife (47 C.S.R. 23).

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

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

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

7.6.2. 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. 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. 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. 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. Pets must not be tortured, molested, or abused in any manner.

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

7.6.8. 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 Department under Section §20-2-47 of the West Virginia Code.

7.6.8.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. 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. 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 Department under Section §20-2-47 of the West Virginia Code.

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

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

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

7.7.8. 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. 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. 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. Visitor contact with the following designated animals may be permitted under the conditions specified:

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

7.7.11.b. 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. 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. 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 Department under Section §20-2-47 of the West Virginia Code.

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

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

7.7.15. Accurate and current records must be maintained concerning all wildlife acquisitions and disposals. 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.

7.7.16. 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 Department under Section §20-2-47 of the West Virginia Code.

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

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

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

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

7.8.3. 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. 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. 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. The name and license number of the preserve owner.

7.8.5.b. The address of the fishing preserve.

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

7.8.5.d. The date the fish were taken.

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

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

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

7.9.1. Preserve Size and Boundaries.

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

7.9.2. Preserve Wildlife.

7.9.2.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. 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. Stocked wildlife may include any of the following: game birds, non-native game birds (such as chukar partridges), rabbits, or the hooved stock of the families Cervidae (deer and elk), Suidae (boar), and Bovidae (buffalo).

7.9.2.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. 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 Section §20-2-47 of the West Virginia Code.

7.9.2.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 Section §20-2-12 of the West Virginia Code.

7.9.3. Hunting License Requirements.

7.9.3.a. A West Virginia resident must possess a valid Class A, Class AB, 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 Section §§20-2-27, 20-2-28, or 20-2-62 of the West Virginia Code.

7.9.3.b. A nonresident must possess a valid Class E license to hunt native wildlife on the shooting preserve and a valid Class M shooting preserve license to hunt stocked wildlife.

7.9.4. Hunting Seasons and Bag Limits.

7.9.4.a. Native wildlife may be hunted only during the season set therefor and in the manner and numbers authorized by Division regulations governing hunting and trapping in West Virginia (58 C.S.R. 11). There shall be no open season for wild waterfowl.

7.9.4.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. 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. 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. Tagging of Harvested Game.

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

7.9.6. Care of Stocked Wildlife.

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

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

7.9.7. Record Keeping.

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

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

7.9.7.c. 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. 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. Shooting Preserve Reports.

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

7.10.1. The licensee must obey Division regulations governing the catching and selling of bait fish (47 C.S.R. 22).

7.11. Field Trial Permit.

7.11.1. 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. Wildlife may not be taken under this permit.

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

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

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

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

7.11.1.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.

§58-48A-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 these regulations 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.

§58-48A-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.



West Virginia
Division of
Natural Resources

CHARLES B. FELTON, JR.
Director

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May 22, 1995

Judy Cooper, Director
Administrative Law Division
Building 12, Suite 157K
1900 Kanawha Blvd. E.
Charleston, WV. 25305-0771

FILED
MAY 23 2 25 PM '95
OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

Dear Ms. Cooper:

The Division of Natural Resources wishes to withdraw the agency approved rule, 58 CSR 48A, that was filed on December 22, 1994 and replace it with the attached. No changes were necessary for the fiscal note, summary, preamble and circumstances statement submitted with the original agency approved rule.

We have been working with Ms. Debra Graham of the Legislative Rule-Making Review Committee who has advised us to alter the format. No substantial changes were made to the rule. Certain technical changes were needed in order to incorporate two of the appendices into the body of the rule.

If you need any additional information please feel free to contact me.

Your assistance in this matter is greatly appreciated.

Sincerely,

Charles B. Felton, Jr.
Director

cc: Debra Graham



