

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #6

Do Not Mark In this Box

FILED

MAY 10 1 10 PM '96

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

**NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED
BY THE WEST VIRGINIA LEGISLATURE.**

AGENCY: DIVISION OF NATURAL RESOURCES TITLE NUMBER: 58

AMENDMENT TO AN EXISTING RULE: YES , NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 64

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 RULE HAS BEEN AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE.

AUTHORIZATION IS CITED IN (house or senate bill number) HB 4268

SECTION 64-10-2(b), PASSED ON MARCH 8, 1996

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON
THE FOLLOWING DATE: MAY 10, 1996


CHARLES B. FELTON, JR.
DIRECTOR

8.40.



KEN HECHLER
Secretary of State

MARY P. RATLIFF
Deputy Secretary of State

STEPHEN N. REED
Deputy Secretary of State

CATHERINE FREROTTE
Executive Assistant

Telephone: (304) 558-6000
Corporations: (304) 558-8000
FAX: (304) 558-0900

WILLIAM H. HARRINGTON
Chief of Staff

JUDY COOPER
Director, Administrative Law

PENNEY BARKER
Supervisor, Corporations

STATE OF WEST VIRGINIA

SECRETARY OF STATE

Building 1, Suite 157-K
1900 Kanawha Blvd., East
Charleston, WV 25305-0770

(Plus all the volunteer
help we can get)

March 12, 1996

Bernard F Dowler
Natural Resources
Wildlife Resources Section
State Capitol Bldg 3 RM 812
Charleston, WV 25305

HB 4268 authorizing, Title 58, Series 64, Miscellaneous Permits & Licenses passed the Legislature on **March 8, 1996**. It is now awaiting the Governor's signature.

You have sixty (60) days after the Governor signs **HB 4268** to final file the legislative rule with the Secretary of State's office. To final file your legislative rule, fill in the blanks on the enclosed form #6, the "Final Filing" form and file the form with our office with a promulgation history of the rule. Authorization for your legislative rule is cited in **HB 4268 Section 64-10-2(b)**. The agency may set the effective date of the legislative rule up to ninety (90) days from the date the legislative rule is final filed with the Secretary of State's office. Please have an authorized signature on the bottom line.

*****IMPORTANT: IF YOUR AGENCY HAS COMPLETED THE LEGISLATIVE RULE ON A WORD PERFECT OR WORD PERFECT COMPATIBLE COMPUTER SYSTEM THAT USES A 3 1/2" DISK, YOU MUST SUBMIT A CLEAN COPY WITH ALL UNDERLINING AND STRIKE-THROUGHS, HEADERS OR FOOTERS REMOVED, TO OUR OFFICE WHEN FINAL FILING THE RULE. REMEMBER, THE TEXT OF THE COMPUTER FILED RULE MUST BE IDENTICAL - WORD FOR WORD, COMMA FOR COMMA, WITH ALL UNDERLINING, STRIKE-THROUGHS, HEADERS OR FOOTERS REMOVED, AS THE HARD COPY AUTHORIZED BY THE LEGISLATURE. NOTICE: ALL ELECTRONIC FILINGS NOT COMPLYING WITH THIS WILL BE REJECTED AND SENT BACK TO THE AGENCY TO BE RESUBMITTED!**

After the final rule is entered into the data base, the rule will be sent back to the agency for review and proofing. The agency has ten (10) working days to send a confirmation or corrections to the Secretary of States. If the agency fails to return this within ten (10) working days, the rule will be filed in the data base with a disclaimer attached stating that the agency failed to review the rule. Following confirmation, corrections or failure to review, as the case may be, the Secretary of State shall submit to the agency a final version of the rule for their records.

If you have any questions or need any assistance, please do not hesitate to contact our office.

Thank you,
Administrative Law Division

FILED

MAY 10 1 10 PM '96

TITLE 58
LEGISLATIVE RULE
BUREAU OF COMMERCE
DIVISION OF NATURAL RESOURCES

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

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

2.1.1.b. Hound coursing/training pen game farm license. This license authorizes the holder to purchase, hold, and release into hound coursing/training pens in accordance

with the provisions of this rule and under terms and conditions of the license, live foxes and raccoons obtained from the wild by a legal trapper under provisions of W. Va. Code §20-2-11 or live wildlife obtained by means specified under 58 CSR 63 Section 3.

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

2.1.2. A license for the operation of a private plant, pond, or business for the propagation, sale, or purchase of fish, frogs, turtles, or other forms of aquatic life for commercial purposes (W. Va. Code §20-2-48). This license authorizes the holder to breed or raise such species as specified by the license and to buy and sell the same dead or alive or the eggs thereof in accordance with the provisions of Division rules governing the commercial sale of wildlife (58 CSR 63). Two categories of this license will be issued by the Division:

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

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

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

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

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

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

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

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

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

- 2.3. "Division" means the West Virginia Division of Natural Resources.
- 2.4. "Director" means the director of the West Virginia Division of Natural Resources.
- 2.5. "District Office" means the office of the West Virginia Division of Natural Resources that houses Division personnel in a district.
- 2.6. "Section" means the Law Enforcement Section of the West Virginia Division of Natural Resources.
- 2.7. "Facility" means the property on which a person engages in an activity of which one of the permits and licenses listed in Section 2.1 of this rule is required by statute and includes, but is not limited to, buildings, enclosures, grounds, impoundments, and ponds.
- 2.8. "Fiscal Year" means July 1 of one year through June 30 of the following year.
- 2.9. "Licensee" means a person who has been issued one of the permits and licenses listed in Section 2.1 of this rule.
- 2.10. "Wild Animals" means all mammals native to West Virginia, except house mice and rats.
- 2.11. "Wild Birds" means all birds except domestic poultry (chickens, ducks, geese, guinea fowl, peafowls, and turkeys), members of the family **Psittacidae** (parrots and parakeets), and other foreign cage birds such as the common canary, exotic finches, and ring doves. The term "wild birds" includes both birds that occur in a natural state in West Virginia and imported foreign game birds such as grouse, partridges, pheasants, quail, and waterfowl.
- 2.12. "Commercial dealer" means a licensee holding a license as defined in Section 2.2.1.a. or an out-of-state person/business licensed to sell and export wildlife.
- 2.13. "Legal Trapper" means a trapper possessing a valid West Virginia trapping license or equivalent (W. Va. Code 20-2-27, 20-2-28).
- 2.14. "Hound Coursing/Training Pen" means a permanent enclosure of no less than forty (40) acres from which there is no reasonable expectation of escape of the animals placed within.
- 2.15. "Incorporated Sportsmen Club" means a club, organization, or group formed for a common purpose to further the tradition of hunting, fishing, or trapping and registered with West Virginia Secretary of State for such purpose.
- 2.16. All other terms shall have the meaning prescribed in W. Va. Code §20-1-2.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4.2. A licensee may seek to renew an issued permit or license by submitting an updated application to the Division no later than one (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 this rule.

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

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

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

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

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

§58-64-6. Inspections.

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

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

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

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

6.2.3. Prior to the issuance of a roadside menagerie permit, Division personnel will

determine that the provisions for housing and care of wildlife to be kept in captivity at the menagerie are proper and adequate and that the safety of the public is protected.

6.3. A licensee's facility, records, or wildlife may be inspected by an authorized representative of the director, on a case by case basis, to assure compliance with all requirements mandated by statute or rule or by the terms and conditions of the licensee's permit or license.

§58-64-7. Terms and Conditions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7.1.12. Accurate and current records of all wildlife acquisitions and sales or possession transfer shall be maintained by the licensee. Records on all wildlife born at the licensee's facility shall also be maintained. All records shall be either typed or written in plain and legible English and shall include the full name, address and telephone number of each person with whom a wildlife transaction has been conducted. All records shall be maintained by the licensee at the facility for a minimum period of three (3) years. In addition the licensee shall provide a bill of sale or document to each person who purchases or receives the licensee's wildlife. The bill of sale or document shall, at a minimum, contain the following information.

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

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

7.1.12.c. The date of the sale.

7.1.12.d. The purchaser's name and address

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

7.1.13. A licensee's facility, records, or wildlife may be inspected by an authorized representative of the director, on a case by case basis, to assure compliance with all requirements mandated by statute or rule or by the terms and conditions in this license.

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

7.2.1. Hound coursing/training pens and wildlife enclosures must meet the minimum requirements set forth below and in Appendix A. In addition, all wildlife enclosures and hound coursing/training pens must be strong enough to both prevent escape of the captive wildlife and protect them from injury. All enclosures must be equipped with a safety barrier which adequately prevents any physical contact between the captive wildlife and visitors or customers. Cages 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 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 (12.5) 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 lives 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 rules governing the commercial sale of wildlife (58 CSR 63).

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 rules governing the commercial sale of wildlife (58 CSR 63).

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 Division 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 Division 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 Division 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 Division 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 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. 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. 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. 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 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 hoofed 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 rules governing hunting and trapping in West Virginia (58 CSR 45). 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 rules governing the catching and selling of bait fish (58 CSR 62).

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.

§58-64-8. Penalties.

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

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

§58-64-9. Appeals to the Director.

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

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

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

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

APPENDIX A

PERMANENT CAGE/PEN/HOUSING REQUIREMENTS

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

1. White-Tailed Deer
 - a. Cage size for one deer
 - 1) 500 square foot paddock with 8'H fence
 - b. Cage size for each additional deer
 - 1) Increase enclosure area by 25%
 - c. Accessories
 - 1) Roofed shelter
2. Black Bears
 - a. Cage size for one bear
 - 1) 25'L by 12'W by 8'H
 - b. Cage size for pair
 - 1) 30'L by 15'W by 8'H
 - c. Accessories
 - 1) Roofed shelter
 - 2) EXTREMELY DANGEROUS - DO NOT MOLEST signs
3. Elk or Buffalo
 - a. Cage size for one animal

- 1) 1,000 square foot paddock or corral
 - b. Cage size for each additional animal
 - 1) Increase enclosure area by 25%
 - c. Accessories
 - 1) Roofed shelter
 - 2) DANGEROUS - DO NOT MOLEST signs
4. Bobcats
 - a. Cage size for one bobcat
 - 1) 8'L by 4'W by 6'H
 - b. Cage size for each additional animal
 - 1) Add 2'L
 - c. Accessories
 - 1) Roofed shelter
 - 2) 4'L by 14"W by 36"h resting shelf
 - 3) At least two claw logs
 - 4) EXTREMELY DANGEROUS - DO NOT MOLEST signs
5. Foxes
 - a. Cage size for one fox
 - 1) 5'L by 30"W by 30"H
 - 2) 18" above ground level
 - 3) A wire cage bottom with openings of a size which allows droppings, but not the fox's feet, to fall through
 - 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
 - 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. Wild Turkey
- a. Cage size for one to three birds
 - 1) 144 square foot enclosure
 - b. Cage size for each additional bird
 - 1) Increase enclosure area by 50%
 - c. Accessories
 - 1) 4'H roosting perch large enough for all birds
 - 2) Dusting area

14. Grouse, Pheasants, Quail or Doves
 - a. Cage size for one to five birds
 - 1) 100 square foot enclosure with 6'H fence
 - b. Cage size for each additional bird
 - 1) Increase enclosure area by 20 square feet
 - c. Accessories
 - 1) Dusting area
15. 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%
16. 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.
17. 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.

SENATE BILL NO. 207

(By Senators Ross, Anderson, Boley,
Buckalew, Grubb and Macnaughtan)

[Introduced January 29, 1996; referred
to the Committee on

Natural Resources;
Finance;
Judiciary

58-64

A BILL to amend and reenact section two, article ten, chapter sixty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to authorizing the division of natural resources to promulgate legislative rules relating to miscellaneous permits and licenses.

Be it enacted by the Legislature of West Virginia:

That section two, article ten, chapter sixty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted, to read as follows:

ARTICLE 10. AUTHORIZATION FOR BUREAU OF COMMERCE TO
PROMULGATE LEGISLATIVE RULES.

§64-10-2. Division of natural resources.

(a) The legislative rules filed in the state register

1 on the fourteenth day of July, one thousand nine hundred
2 ninety-four, authorized under the authority of section
3 five-a, article eleven, chapter twenty, of this code,
4 modified by the division of natural resources to meet the
5 objections of the legislative rule-making review committee
6 and refiled in the state register on the eighth day of
7 September, one thousand nine hundred ninety-four, relating
8 to the division of natural resources (recycling assistance
9 fund grant program, 58 CSR 43 5), are authorized.

10 (b) The legislative rules filed in the state register
11 on the twelfth day of August, one thousand nine hundred
12 ninety-four, authorized under the authority of section
13 seven, article one, chapter twenty, of this code, modified
14 by the division of natural resources to meet the objections
15 of the legislative rule-making review committee and refiled
16 in the state register on the fourteenth day of October, one
17 thousand nine hundred ninety-four, relating to the division
18 of natural resources (West Virginia wildlife management
19 areas, 58 CSR 6 43), are authorized with the following
20 amendments:

21 On page four, section 6.4.3, before the word "No" by
22 inserting "Except for persons who are under sixteen years
23 of age and who have a valid West Virginia hunting
24 license,";

And,

On page four, section 6.4.3, by deleting the capital letter "N" and substituting in lieu thereof the lower case "n."

(c) The legislative rules filed in the state register on the twelfth day of August, one thousand nine hundred ninety-four, authorized under the authority of section seven, article one, chapter twenty, of this code, modified by the division of natural resources to meet the objections of the legislative rule-making review committee and refiled in the state register on the fourteenth day of October, one thousand nine hundred ninety-four, relating to the division of natural resources (special bear hunting regulations, 58 CSR § 48), are authorized.

(d) The legislative rules filed in the state register on the twelfth day of August, one thousand nine hundred ninety-four, authorized under the authority of section seven, article one, chapter twenty, of this code, modified by the division of natural resources to meet the objections of the legislative rule-making review committee and refiled in the state register on the fourteenth day of October, one thousand nine hundred ninety-four, relating to the division of natural resources (wild boar hunting regulations, 58 CSR § 52), are authorized.

1 (e) The legislative rules filed in the state register
2 on the fifteenth day of August, one thousand nine hundred
3 ninety-four, authorized under the authority of section
4 seven, article one, chapter twenty, of this code, modified
5 by the division of natural resources to meet the objections
6 of the legislative rule-making review committee and refiled
7 in the state register on the fourteenth day of October, one
8 thousand nine hundred ninety-four, relating to the division
9 of natural resources (special fishing rule, 58 CSR ~~21~~ 61),
10 are authorized with the following amendment:

11 On page four, section 58-21-5, paragraph 5.1.1, by
12 deleting the numeral "15" and inserting in lieu thereof the
13 numeral "13".

14 (f) The legislative rules filed in the state register
15 on the second day of December, one thousand nine hundred
16 ninety-four, authorized under the authority of section
17 seven, article one, chapter twenty, of this code, modified
18 by the division of natural resources to meet the objections
19 of the legislative rule-making review committee and refiled
20 in the state register on the sixteenth day of December, one
21 thousand nine hundred ninety-four, relating to the division
22 of natural resources (rules governing public use of West
23 Virginia state parks, state forests and state wildlife
24 management areas under the division of natural resources,

1 58 CSR ~~58~~ 31), are authorized with the following amendment:

2 On page five, section 2.23, line four, before the word
3 "chartered" by inserting the word "A" and by deleting the
4 letter "s" at the end of the word "foundations".

5 (g) The legislative rules filed in the state register
6 on the twelfth day of August, one thousand nine hundred
7 ninety-four, authorized under the authority of section
8 seven, article one, chapter twenty, of this code, modified
9 by the division of natural resources to meet the objections
10 of the legislative rule-making review committee and refiled
11 in the state register on the fourteenth day of October, one
12 thousand nine hundred ninety-four, relating to the division
13 of natural resources (prohibitions when hunting and
14 trapping, 58 CSR ~~47~~ 47) are authorized with the following
15 amendments:

16 On page two, by striking out section 3.5 and
17 renumbering the remaining sections;

18 In section 3.7, after the word "net" by inserting the
19 word "bait" and after the word "any" by inserting the word
20 "deer";

21 And,

22 By striking out subsection 3.7.1 and renumbering the
23 remaining sections.

24 (h) The legislative rules filed in the state register

1 on the twenty-second day of December, one thousand nine
2 hundred ninety-four, authorized under the authority of
3 section eleven, article two, chapter twenty, of this code,
4 modified by the division of natural resources to meet the
5 objections of the legislative rule-making review committee
6 and refiled in the state register on the twentieth day of
7 September, one thousand nine hundred ninety-five, relating
8 to the division of natural resources (miscellaneous permits
9 and licenses, 58 CSR 64), are authorized.

10
11 NOTE: The purpose of this bill is to authorize the
12 Division of Natural Resources to promulgate legislative
13 rules relating to miscellaneous permits and licenses.

14
15 Strike-throughs indicate language that would be
16 stricken from the present law, and underscoring indicates
17 new language that would be added.

4274

H. B. 4274

(By Delegates Douglas, Gallagher, Faircloth, Compton,
Linch and Riggs)

(Introduced January 29, 1996; referred to the
Committee on Agriculture and Natural Resources then
the Judiciary)

5864

A BILL to amend and reenact section two, article ten,
chapter sixty-four of the code of West Virginia, one
thousand nine hundred thirty-one, as amended, relating
to authorizing the division of natural resources to
promulgate legislative rules relating to miscellaneous
permits and licenses.

Be it enacted by the Legislature of West Virginia:

That section two, article ten, chapter sixty-four of
the code of West Virginia, one thousand nine hundred
thirty-one, as amended, be amended and reenacted, to read
as follows:

ARTICLE 10. AUTHORIZATION FOR BUREAU OF COMMERCE TO
PROMULGATE LEGISLATIVE RULES.

§64-10-2. Division of natural resources.

(a) The legislative rules filed in the state register

4274

1 on the fourteenth day of July, one thousand nine hundred
2 ninety-four, authorized under the authority of section
3 five-a, article eleven, chapter twenty, of this code,
4 modified by the division of natural resources to meet the
5 objections of the legislative rule-making review committee
6 and refiled in the state register on the eighth day of
7 September, one thousand nine hundred ninety-four, relating
8 to the division of natural resources (recycling assistance
9 fund grant program, 58 CSR 43 5), are authorized.

10 (b) The legislative rules filed in the state register
11 on the twelfth day of August, one thousand nine hundred
12 ninety-four, authorized under the authority of section
13 seven, article one, chapter twenty, of this code, modified
14 by the division of natural resources to meet the objections
15 of the legislative rule-making review committee and refiled
16 in the state register on the fourteenth day of October, one
17 thousand nine hundred ninety-four, relating to the division
18 of natural resources (West Virginia wildlife management
19 areas, 58 CSR 6 43), are authorized with the following
20 amendments:

21 On page four, section 6.4.3, before the word "No" by
22 inserting "Except for persons who are under sixteen years
23 of age and who have a valid West Virginia hunting
24 license,";

1 And,

2 On page four, section 6.4.3, by deleting the capital
3 letter "N" and substituting in lieu thereof the lower case
4 "n."

5 (c) The legislative rules filed in the state register
6 on the twelfth day of August, one thousand nine hundred
7 ninety-four, authorized under the authority of section
8 seven, article one, chapter twenty, of this code, modified
9 by the division of natural resources to meet the objections
10 of the legislative rule-making review committee and refiled
11 in the state register on the fourteenth day of October, one
12 thousand nine hundred ninety-four, relating to the division
13 of natural resources (special bear hunting regulations, 58
14 CSR ~~48~~ 48), are authorized.

15 (d) The legislative rules filed in the state register
16 on the twelfth day of August, one thousand nine hundred
17 ninety-four, authorized under the authority of section
18 seven, article one, chapter twenty, of this code, modified
19 by the division of natural resources to meet the objections
20 of the legislative rule-making review committee and refiled
21 in the state register on the fourteenth day of October, one
22 thousand nine hundred ninety-four, relating to the division
23 of natural resources (wild boar hunting regulations, 58 CSR
24 ~~48~~ 52), are authorized.

1 (e) The legislative rules filed in the state register
2 on the fifteenth day of August, one thousand nine hundred
3 ninety-four, authorized under the authority of section
4 seven, article one, chapter twenty, of this code, modified
5 by the division of natural resources to meet the objections
6 of the legislative rule-making review committee and refiled
7 in the state register on the fourteenth day of October, one
8 thousand nine hundred ninety-four, relating to the division
9 of natural resources (special fishing rule, 58 CSR ~~21~~ 61),
10 are authorized with the following amendment:

11 On page four, section 58-21-5, paragraph 5.1.1, by
12 deleting the numeral "15" and inserting in lieu thereof the
13 numeral "13".

14 (f) The legislative rules filed in the state register
15 on the second day of December, one thousand nine hundred
16 ninety-four, authorized under the authority of section
17 seven, article one, chapter twenty, of this code, modified
18 by the division of natural resources to meet the objections
19 of the legislative rule-making review committee and refiled
20 in the state register on the sixteenth day of December, one
21 thousand nine hundred ninety-four, relating to the division
22 of natural resources (rules governing public use of West
23 Virginia state parks, state forests and state wildlife
24 management areas under the division of natural resources,

1 58 CSR ~~58~~ 31), are authorized with the following amendment:

2 On page five, section 2.23, line four, before the word
3 "chartered" by inserting the word "A" and by deleting the
4 letter "s" at the end of the word "foundations".

5 (g) The legislative rules filed in the state register
6 on the twelfth day of August, one thousand nine hundred
7 ninety-four, authorized under the authority of section
8 seven, article one, chapter twenty, of this code, modified
9 by the division of natural resources to meet the objections
10 of the legislative rule-making review committee and refiled
11 in the state register on the fourteenth day of October, one
12 thousand nine hundred ninety-four, relating to the division
13 of natural resources (prohibitions when hunting and
14 trapping, 58 CSR ~~11B~~ 47) are authorized with the following
15 amendments:

16 On page two, by striking out section 3.5 and
17 renumbering the remaining sections;

18 In section 3.7, after the word "net" by inserting the
19 word "bait" and after the word "any" by inserting the word
20 "deer";

21 And,
22 By striking out subsection 3.7.1 and renumbering the
23 remaining sections.

24 (h) The legislative rules filed in the state register

1 on the twenty-second day of December, one thousand nine
2 hundred ninety-four, authorized under the authority of
3 section eleven, article two, chapter twenty, of this code,
4 modified by the division of natural resources to meet the
5 objections of the legislative rule-making review committee
6 and refiled in the state register on the twentieth day of
7 September, one thousand nine hundred ninety-five, relating
8 to the division of natural resources (miscellaneous permits
9 and licenses, 58 CSR 64), are authorized.

10
11 NOTE: The purpose of this bill is to authorize the
12 Division of Natural Resources to promulgate legislative
13 rules relating to miscellaneous permits and licenses.
14

15 ~~Strike-throughs indicate language that would be~~
16 ~~stricken from the present law, and underscoring indicates~~
17 ~~new language that would be added.~~

KEN HECHLER
Secretary of State

MARY P. RATLIFF
Deputy Secretary of State

STEPHEN N. REED
Deputy Secretary of State

CATHERINE FREROTTE
Executive Assistant

Telephone: (304) 558-6000
Corporations: (304) 558-8000
FAX: (304) 558-0900



FILED

OCT 24 10 50 AM '96

WILLIAM H. HARRINGTON
Chief of Staff

JUDY COOPER
Director, Administrative Law

PENNEY BARKER
Supervisor, Corporations

STATE OF WEST VIRGINIA
SECRETARY OF STATE
Building 1, Suite 157-K
1900 Kanawha Blvd., East
Charleston, WV 25305-0770

(Plus all the volunteer
help we can get)

TO: BILL DANIEL

AGENCY: NATURAL RESOURCES

FROM: JUDY COOPER, DIRECTOR, ADMINISTRATIVE LAW DIVISION

DATE: October 3, 1996

THE ATTACHED RULE FILED BY YOUR AGENCY HAS BEEN ENTERED INTO OUR COMPUTER SYSTEM. PLEASE REVIEW, PROOF AND RETURN IT WITH ANY CORRECTIONS. IF THERE ARE NO CORRECTIONS, PLEASE SIGN THIS MEMO AND RETURN IT TO THIS OFFICE. YOU WILL BE SENT A FINAL VERSION OF THE RULE FOR YOUR RECORDS.

PLEASE RETURN EITHER THE CORRECTED RULE OR THIS FORM WITHIN TEN (10) WORKING DAYS OF THE DATE YOU RECEIVED THIS REQUEST. CALL IF YOU HAVE ANY QUESTIONS.

SERIES: 64 TITLE: 58 NATURAL RESOURCES

* THE ATTACHED RULE HAS BEEN REVIEWED AND IS CORRECT.

SIGNED: WSDaniel
TITLE OF PERSON SIGNING: Deputy Chief, Law Enforcement
DATE: 10/15/96

* THE ATTACHED RULE HAS BEEN REVIEWED AND NEEDS CORRECTING. THE CORRECTIONS HAVE BEEN MARKED.

SIGNED: _____
TITLE OF PERSON SIGNING: _____
DATE: _____

NOTE: IF YOU ARE NOT THE PERSON WHO HANDLES THIS RULE, PLEASE FORWARD TO THE CORRECT PERSON.