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2013 AUG 29 AM 10:22 Do Not Mark in This Box 2013 AUG 29 AM 10:22

**WEST VIRGINIA
SECRETARY OF STATE**

NATALIE E. TENNANT

ADMINISTRATIVE LAW DIVISION

Form #5

OFFICE OF THE
SECRETARY OF STATE

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SECRETARY OF STATE

**NOTICE OF AGENCY ADOPTION OF A PROCEDURAL OR INTERPRETIVE RULE
OR A LEGISLATIVE RULE EXEMPT FROM LEGISLATIVE REVIEW**

AGENCY: Dept. of Commerce, Div. of Natural Resources, Wildlife Resources Section TITLE NUMBER: 58

CITE AUTHORITY: 20-1-17(f)

RULE TYPE: PROCEDURAL _____ INTERPRETIVE _____

EXEMPT LEGISLATIVE RULE X

CITE STATUTE(S) GRANTING EXEMPTION FROM LEGISLATIVE REVIEW

AMENDMENT TO AN EXISTING RULE: YES _____ NO X

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: 73

TITLE OF RULE BEING PROPOSED: Reptile and Amphibian Regulations

THE ABOVE RULE IS HEREBY ADOPTED AND FILED WITH THE SECRETARY OF STATE. THE
EFFECTIVE DATE OF THIS RULE IS September 1, 2013


Authorized Signature

**TITLE 58
LEGISLATIVE EXEMPT RULE
DEPARTMENT OF COMMERCE
DIVISION OF NATURAL RESOURCES**

**SERIES 73
REPTILE AND AMPHIBIAN REGULATIONS**

- SUMMARY:** Series 73 rule establishes seasons and bag limits for reptiles and amphibians in West Virginia. The rule will become effective January 1, 2014.
- CIRCUMSTANCES:** This rule was established to prevent the take of reptile and amphibian species from the wild for sale on the black market. It sets closed seasons for species with restricted ranges or species that are desirable for black market sale.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Series 73, Reptile and Amphibian Regulations

Rule Title: _____
 Type of Rule: Legislative Interpretive Procedural
 Agency: Division of Natural Resources, Wildlife Resources Section
 Address: 324 Fourth Avenue
 South Charleston, WV 25303
 Phone Number: 304-558-2771 Email: Billie.J.Shearer@wv.gov

Fiscal Note Summary

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

There will be added revenue resulting from possible violations of the regulations.

Fiscal Note Detail

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

FISCAL YEAR			
Effect of Proposal	Current Increase/Decrease (use "-")	Next Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	0.00	0.00	0.00
Personal Services			
Current Expenses			
Repairs & Alterations			
Assets			
Other			
2. Estimated Total Revenues	0.00	1,000.00	1,000.00

Series 73, Reptile and Amphibian Regulations

Rule Title: _____

Rule Title: _____

3. **Explanation of above estimates (including long-range effect):**
Please include any increase or decrease in fees in your estimated total revenues.

Any increase in total revenues will be the result of individuals being fined for violating the regulations. There will likely be violations in the first year, as the public may not be aware of the regulations. Violations may decrease over time.

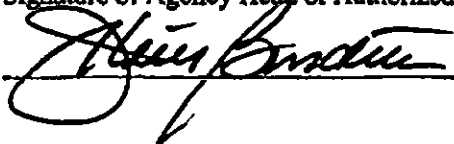
MEMORANDUM

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

Since this is a new rule and it was brought about as a deterrent to illegal collection, it is difficult to estimate a revenue amount.

Date: _____

Signature of Agency Head or Authorized Representative



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SECRETARY OF STATE

**TITLE 58
LEGISLATIVE EXEMPT RULE
DEPARTMENT OF COMMERCE
DIVISION OF NATURAL RESOURCES**

**SERIES 73
REPTILE AND AMPHIBIAN REGULATIONS**

58-73-1. General.

1.1. Scope – These regulations establish possession limits on reptiles and amphibians in West Virginia.

1.2. Authority – WV Code §20-1-17(7).

1.3. Filing Date – August 29, 2013

1.4. Effective Date – September 1, 2013

1.5. Possession Limits in General – All possession limits, unless otherwise noted, are statewide and subject to change under the provisions of WV Code §20-1-17(7).

1.6. For the purpose of this rule, only bona fide WV residents are permitted to take and/or possess reptile and amphibian species listed as those that can be taken.

1.7. WV Fishing License – A valid WV fishing license is required to take aquatic life as prescribed in WV Code §20-2-27.

1.7.a. Nonresidents with a valid Class F nonresident fishing license may take American bullfrog and green frog, as prescribed in §20-2-42f, and certain amphibians as described in this rule.

58-73-2. Definitions.

2.1. All terms shall have the meanings prescribed in §20-1-2.

2.2. "Reptile" means turtles, lizards and snakes, or any part thereof, and eggs or offspring.

2.3. "Amphibian" means salamanders, hellbenders, mudpuppies, frogs and toads, or any part thereof, and eggs or offspring.

2.4. "Possession" means reptiles or amphibians taken alive or dead from the wild in which are in any way under the control of an individual, as prescribed in §20-2-4.

58-73-3. Reptiles and Amphibians Which May Not Be Taken and/or Possessed.

3.1. The season is closed for the following amphibians: Eastern hellbender (*Cryptobranchus a. alleghaniensis*), mudpuppy (*Necturus m. maculosus*), Cheat Mountain salamander (*Plethodon nettingi*), Cow Knob (white-spotted) salamander (*Plethodon punctatus*), Shenandoah Mountain salamander (*Plethodon virginia*), smallmouth salamander (*Ambystoma texanum*), streamside salamander (*Ambystoma barbouri*), green salamander (*Aneides aeneus*), cave salamander (*Eurycea lucifuga*), West Virginia spring salamander (*Gyrinophilus subterraneus*), eastern spadefoot toad (*Scaphiopus holbrookii*), northern cricket frog (*Acris crepitans*) and northern leopard frog (*Lithobates pipiens*). The amphibians, their eggs, offspring or any parts thereof may not be possessed.

3.2. The season is closed for the following reptiles: wood turtle (*Glyptemys insculpta*), spotted turtle (*Clemmys guttata*), northern map turtle (*Graptemys geographica*), Ouachita map turtle (*Graptemys o. ouachitensis*) and midland smooth softshell (*Apalone m. mutica*). The reptiles, their eggs, offspring or parts thereof may not be possessed.

58-73-4. Reptiles and Amphibians Which May Be Taken and/or Possessed.

4.1. Salamanders: Jefferson salamander (*Ambystoma jeffersonianum*), spotted salamander (*Ambystoma maculatum*), marbled salamander (*Ambystoma opacum*), red-spotted newt (including red eft) (*Notophthalmus v. viridescens*), northern dusky salamander (*Desmognathus fuscus*), seal salamander (*Desmognathus monticola*), Allegheny mountain dusky salamander (*Desmognathus ochrophaeus*), black-bellied salamander (*Desmognathus quadramaculatus*), Black Mountain salamander (*Desmognathus welteri*), northern spring salamander (*Gyrinophilus p. porphyriticus*), Kentucky spring salamander (*Gyrinophilus p. duryi*), four-toed salamander (*Hemidactylum scutatum*), northern two-lined salamander (*Eurycea bislineata*), southern two-lined salamander (*Eurycea cirrigera*), long-tailed salamander (*Eurycea l. longicauda*), eastern red-backed salamander (*Plethodon cinereus*), white-spotted slimy salamander (*Plethodon cylindraceus*), northern ravine salamander (*Plethodon electromorphus*), northern slimy salamander (*Plethodon glutinosus*), valley and ridge salamander (*Plethodon hoffmani*), Cumberland Plateau salamander (*Plethodon kentucki*), southern ravine salamander (*Plethodon richmondi*), Wehrle's salamander (*Plethodon wehrlei*), northern red salamander (*Pseudotriton ruber ruber*) and midland mud salamander (*Pseudotriton montanus diastictus*). The total possession limit for these species is ten (10) in aggregate.

4.1.a. Licensed bait dealers may possess two hundred fifty (250) salamanders in total aggregate as prescribed in Title 58, Series 62 "Catching and Selling Bait Fish" (58CSR62), but cannot possess species with closed seasons as listed in 3.1.

4.2. Toads and frogs: Eastern American toad (*Anaxyrus a. americanus*), Fowler's toad (*Anaxyrus fowleri*), Cope's gray treefrog (*Hyla chrysoscelis*), gray treefrog (*Hyla versicolor*), mountain chorus frog (*Pseudacris brachyphona*), spring peeper (*Pseudacris crucifer*), upland chorus frog (*Pseudacris feriarum*), American bullfrog (*Lithobates catesbeianus*), northern green frog (*Lithobates clamitans melanota*), pickerel frog (*Lithobates palustris*) and wood frog (*Lithobates sylvaticus*). The total possession limit for these species is four (4) in aggregate, except for the American bullfrog and green frog, as prescribed in Title 58, Series 60, Section 5.11 "Fishing Regulations" (58CSR60)

4.3. Amphibian eggs, tadpoles, larvae. No more than 25 eggs, tadpoles or larvae, in aggregate, may be possessed.

4.4. Snakes: Eastern wormsnafe (*Carphophis a. amoenus*), northern black racer (*Coluber c. constrictor*), northern ring-necked snake (*Diadophis punctatus edwardsii*), red cornsnake (*Pantherophis guttatus*), eastern ratsnafe (*Scotophis alleghaniensis*), eastern hog-nosed snake (*Heterodon platirhinos*), eastern kingsnafe (*Lampropeltis g. getula*), eastern black kingsnafe (*Lampropeltis g. nigra*), eastern milksnafe (*Lampropeltis t. triangulum*), common watersnafe (*Nerodia s. sipedon*), northern rough greensnafe (*Opheodrys a. aestivus*), smooth greensnafe (*Opheodrys vernalis*), northern pinesnafe (*Pituophis m. melanoleucus*), queen snake (*Regina septemvittata*), northern brownsnafe (*Storeria o. deKayi*), northern red-bellied snake (*Storeria o. occipitamaculata*), common ribbonsnafe (*Thamnophis s. sauritus*), eastern gartersnafe (*Thamnophis s. sirtalis*), eastern smooth earthsnafe (*Virginia v. valeriae*), mountain earthsnafe (*Virginia v. pulchra*), northern copperhead (*Agkistrodon contortrix mokasen*) and timber rattlesnafe (*Crotalus horridus*). The total possession limit is four (4) snakes in aggregate, with exceptions listed in 58-73-4.4.a and 58-73-4.4.b.

4.4.a. Northern copperhead. The possession limit for the northern copperhead (*Agkistrodon contortrix mokasen*) is one (1).

4.4.b. Timber rattlesnafe. The possession limit for timber rattlesnafe (*Crotalus horridus*) is one (1). The possession of timber rattlesnafes less than forty-two (42) inches in length is not permitted.

4.4.c. Protection of property. Homeowners, lessees or their representatives may destroy or collect for relocation any snake within the curtilage of a dwelling or any structure used for domestic purposes.

4.4.d. Snake eggs. The possession of snake eggs is not permitted.

4.4.e. Shed skin: Snake skins that have been shed may be taken, and will not be considered as part of the total possession limit.

4.5. Lizards and skinks: Eastern fence lizard (*Sceloporus undulatus*), eastern six-lined racerunner (*Aspidoscelis s. sexlineata*), northern coal skink (*Plestiodon a. anthracinus*), common five-lined skink (*Plestiodon fasciatus*), broad-headed skink (*Plestiodon laticeps*) and little brown skink (*Scincella lateralis*). The total possession limit is four (4) in aggregate.

4.5.a. Collection dates. Lizards or skinks may be taken only between January 1 and May 15 and between July 15 and December 31.

4.5.b. Lizard or skink eggs. The possession of lizard or skink eggs is not permitted.

4.6. Turtles: Eastern musk turtle (*Sternotherus odoratus*), eastern painted turtle (*Chrysemys p. picta*), midland painted turtle (*Chrysemys p. marginata*), eastern river cooter (*Pseudemys c. concinna*), northern red-bellied cooter (*Pseudemys rubriventris*), eastern box turtle (*Terrapene c. carolina*) and red-eared slider (*Trachemys scripta elegans*). The total possession limit is four (4) turtles in aggregate.

4.6.a. Eastern snapping turtle and eastern spiny softshell turtle. The daily creel limit of eastern snapping turtle (*Chelydra s. serpentina*) and eastern spiny softshell (*Apalone s. spinifera*) is ten (10) turtles and the possession limit is twenty (20) turtles.

4.6.b. Collection dates. Turtles may be taken only between January 1 and May 15 and July 15 and December 31.

4.6.c. Turtle eggs. The possession of turtle eggs is not permitted.

58-73-5. Possession and Release of Reptiles and Amphibians.

5.1. It shall be unlawful to take or possess any reptile or amphibian from any area under agreement with, owned or controlled or administered by the Division of Natural Resources, Wildlife Resources Section, except as described in 58-73-5.1.a and 58-73-5.1.b.

5.1.a. Persons who have received written permission from the Chief of the Wildlife Resources Section, provided they carry and exhibit said permission upon request.

5.1.b. Persons lawfully taking bullfrogs, green frogs, snapping turtles and eastern spiny softshell turtles.

5.2. It shall be unlawful to release any reptile or amphibian back into the wild that was held in captivity for more than 30 days. Reptiles or amphibians that have been held in the same enclosure with other species of reptiles or amphibians may not be released at any time. Reptiles or amphibians that are released must be released at the location of the capture.