

**WEST VIRGINIA
SECRETARY OF STATE
NATALIE E. TENNANT
ADMINISTRATIVE LAW DIVISION**

Form #2

Do Not Mark In This Box

FILED

2014 JUL -2 A 11:56

OFFICE WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: West Virginia Department of Agriculture TITLE NUMBER: 61

RULE TYPE: Legislative CITE AUTHORITY: 19-34-1

AMENDMENT TO AN EXISTING RULE: YES ☐ NO ☒

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: 30

TITLE OF RULE BEING PROPOSED: Dangerous Wild Animal Rule

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON August 1, 2014 AT 12:00 p.m. ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS:

West Virginia Department of Agriculture

1900 Kanawha Boulevard, East

Charleston, WV 25305

THE ISSUES TO BE HEARD SHALL BE
LIMITED TO THIS PROPOSED RULE.



Authorized Signature

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title:

Dangerous Wild Animal Rule

Type of Rule:

☒ Legislative ☐ Interpretive ☐ Procedural

Agency:

West Virginia Department of Agriculture

Address:

1900 Kanawha Boulevard, East
Charleston, WV 25305

Phone Number:

304-558-3200

Email: jodeemartin@wvda.us

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 no additional cost to state government. There is a \$100 permit fee per dangerous wild animal, but at this time there is no way to know how many animals will be permitted.

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	0.00	0.00	0.00
Current Expenses	0.00	0.00	0.00
Repairs & Alterations	0.00	0.00	0.00
Assets	0.00	0.00	0.00
Other	0.00	0.00	0.00
2. Estimated Total Revenues	0.00	0.00	0.00

Dangerous Wild Animal

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.

N/A

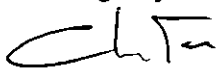
MEMORANDUM

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.

N/A

Date: July 2, 2014

Signature of Agency Head or Authorized Representative





West Virginia Department of Agriculture

1900 Kanawha Blvd. E., Charleston, WV 25305
304-558-3550

Walt Helmick
Commissioner

Statement of Circumstances

This proposed rule is written to fulfill a request of the West Virginia Legislature which created the Dangerous Wild Animal Act in which set forth its findings and purpose; defining terms; and creating the Dangerous Wild Animal Board. The Dangerous Wild Animal Board was charged with creating a list of dangerous wild animals by rule, establishing caging requirements, and fees.

CLF



West Virginia Department of Agriculture
1900 Kanawha Blvd. E., Charleston, WV 25305
304-558-3550

Walt Helmick
Commissioner

Brief Summary of Proposed Rule
Dangerous Wild Animal Rule
Title 61 Series 30

This legislative rule establishes the West Virginia Dangerous Wild Animals list, caging requirements, permit fees, as well as establishes a date for the Dangerous Wild Animal Board to meet annually to determine if animals should be added to the list.

Title 61
Legislative Rule
Dangerous Wild Animal Rule
Series 30

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§61-30-1. General.

1.1. Scope. This legislative rule establishes the West Virginia Dangerous Wild Animals list, caging requirements, permit fees, as well as establishes a date for the Dangerous Wild Animal Board to annually review the list of prohibited Dangerous Wild Animals to determine if animals should be added to the list.

1.2. Authority. -- WV Code §19-34-1

1.3. Filing Date. --

1.4. Effective Date. --

§61-30-2. Definitions.

2.1. Animal Welfare Act” means a law passed by the United States Congress in 1966 in which sets for caging standards to help protect animals from inhumane treatment,

2.2. “Applicant” means any person male or female who requests permission from the Dangerous Wild Animal Board to possess a Dangerous Wild Animal.

2.3. “Cage” means an enclosure of wires, or bars which is used to confine mammals, birds, reptiles, amphibians, or aquatic animals to prevent escape.

2.4. “Caging Requirements” means a cage that meets the necessary requirements to confine mammals, birds, reptiles, amphibians, or aquatic animals to prevent escape.

2.5. “Dangerous Wild Animal” means a mammal, bird, reptile, amphibian or aquatic animal, including a hybrid that is dangerous to humans, other animals or the environment due to its inherent nature and capability to do significant harm.

2.6. ”Dangerous Wild Animal Board” or “Board” means a board of consisting of the Commissioner of Agriculture, the Secretary of the West Virginia Department of Health and Human Services, and the Director of the West Virginia Division of Natural Resources to oversee and regulate dangerous wild animals, as well as issue and revoke permits.

2.7. “Dangerous Wild Animal List” means a list of mammals, birds, reptiles, amphibians, or aquatic animals, including hybrids that are considered dangerous to humans, other animals, or to the environment to their inherent nature and capability to do significant harm.

2.8. "Permit" means approval or permission granted to an applicant by the Dangerous Wild Animal Board to possess a Dangerous Wild Animal in the state of West Virginia.

§61-30-3. Dangerous Wild Animal List.

The following is a list of dangerous wild animals for which possession is prohibited without a permit issued by the Board. Wildlife species identified in Chapter 20, and Title 58 of the West Virginia Code are regulated by the West Virginia Division of Natural Resources and exempt from the Dangerous Wild Animal Act. Domestic animals, traditional livestock and alternative livestock identified in Chapter 19, and Title 61 of the West Virginia Code are regulated by the West Virginia Department of Agriculture and exempt from the Dangerous Wild Animal Act.

<u>CLASS</u>	<u>ORDER</u>
Amphibia (Amphibians)	Gymnophonia (Caecilians) All species prohibited Caudata (Salamanders) All species prohibited Anura (Frogs and Toads) Family Pipidae (clawed frogs) All species prohibited Family Hylidae (tree frogs) All species prohibited Family Bufonidae (toads) All species prohibited
Aves (Birds)	Family Psittacidae Genus Myiopsitta Myiopsitta monachus (Monk or Quaker parakeet) Family Cuculidae (Cuckoos) All species prohibited Family Alaudidae Genus Alauda Alauda arvensis (Sky lark) Family Pycnonotidae (Fruit thrushes or bulbuls) Genus Pycnonotus Pycnonotus jocosus (Red-whiskered bulbul) Family Turdidae Genus Turdus Turdus merula (European blackbird) Turdus viscivorus (Mistle thrush) Turdus pilaris (Fieldfare) Turdus Philomena (Song thrush) Family Zosteropidae Genus Zosterops (White eyes) All species prohibited Family Ploceidae Genus Ploceus (Weaver birds) Foudia madagascariensis (Madagascar weaver) Genus Quelea Quelea quelea (Dioch or Red-billed quelea)

Family Passeridae
 Genus Passer (Weaver finches) All species prohibited

Family Icteridae
 Genus Quiscalus (Blackbirds) All species prohibited
 Genus Molothrus (Cowbirds)

Family Emberizidae
 Genus Emberiza
 Emberiza citronella (Yellowhammer)

Family Estrildidae
 Genus Padda/Lonchra
 Padda oryzivora/Lonchura oryzivora
 (Java sparrow)
 Lonchura punctulata (Spotted munia)

Family Sturnidae (Starlings)
 Genus Sturnus
 Sturnus roseus (Pink starling)

Reptilia (Reptiles)

Rhyncocephalia (tuataras) All species prohibited

Crocodylia (crocodiles, caimans, gharials) All species prohibited

Testudines (turtles) All species prohibited
 (Refer to Title 21 CFR 1240.62(Public Health Services Act) for carapace size restrictions)

Squamata (snakes and lizards)

Family Varanidae (monitors)
 Genus Varanus
 Varanus niloticus (Nile monitor)
 Varanus komodoensis (Komodo dragon)

Family Elapidae (Cobras, mambas, sea snakes, etc.)
 All species prohibited

Family Viperidae All species prohibited

Family Colubridae
 Genus Rhabdophis (keelback snakes)
 All species prohibited
 Genus Boiga (cat snakes) All species prohibited
 Genus Thelotornis (twig snakes)
 Genus Dispholidus (boomslangs)
 Dispholidus typus (Boomslang)

Family Atractispididae (mole vipers) All species prohibited

Family Boidae (Boas)
 Genus Eunectes (anacondas) All species prohibited
 Genus Python (Pythons)
 Python molurus (Burmese (Indian) python)
 Python sebae (North African Rock python)

Python natalensis (South African Rock python)
Broghammerus reticulatus/P. reticulatus
(Reticulated python)

Genus Morelia
Morelia amethystina (Amethystine python)

Malacostraca (Crayfish)

Decapoda

Family Cambaridae

Genus Orconectes

Orconectes virilis (Virile crayfish)

Orconectes rusticus (Rusty crayfish)

Genus Procambarus

Procambarus clarkia (Red lobster, Red swamp
Crayfish)

Gastropoda (Snails)

Family Viviparidae

Genus Bellamya

Bellamya (Cipangopaludina) chinensis
(Chinese mystery snail)

Spiraxidae

Genus Euglandina

Euglandina rosea (Rosy wolf snail)

Family Achatinidae

Genus Achatina

Achatina fulica (Giant African land snail)

Achatina achatina (Giant African land snail)

Genus Archachatina

Archachatina marginata (African Giant snail)

Family Hydrobiidae

Genus Potamopyrgus

Potamopyrgus antipodarum
(New Zealand Mudsail)

Family Bithyniidae

Genus Bithynia

Bithynia tentaculata (Faucet snail)

Bivalvia (Bivalves)

Veneroida (Molluscs)

Dreissenidae

Genus Dreissena

Dreissena polymorpha (Zebra mussel)

Dreissena rostriformis (Quagga mussel)

Corbiculidae

Genus *Corbicula*
Corbicula fluminea (Asiatic clam)

Actinopterygii (Ray-finned fishes)

Cyprinodontiformes
Poeciliidae
Genus *Gambusia*
Gambusia affinis (Mosquito fish)

Tetraodontiformes (trigger, file & puffer fish) All species prohibited

Perciformes (perch-like fish)

Gobiidae (Goby family) All species prohibited

Channidae

Genus *Channa* (snakehead fish) All species prohibited

Cypriniformes (minnow like fish)

Cobitidae

Genus *Misgurnus*

Misgurnus anguillicaudatus (oriental weatherfish)

Characiformes (piranha fish, tiger fish) All species prohibited

Siluriformes (candiru catfish, walking catfish) All species prohibited

Mammalia (Mammals)

Primates All non-human primates prohibited

Edentata (sloths, anteaters, armadillos, etc.) All species prohibited

Didelphimorphia (marsupials or pouched mammals)

All species prohibited

Insectivora (shrews, moles, hedgehogs, etc.) All species prohibited

Dermoptera (gliding lemurs) All species prohibited

Chiroptera (bats) All species prohibited

Monotremata (spiny anteaters, platypuses) All species prohibited

Pholidota (pangolins, scaly anteaters) All species prohibited

Lagomorpha (pikas, rabbits, hares) All species prohibited

Rodentia (rodents) All species prohibited, except domesticated golden

Hamsters, also known as Syrian hamster (*Mesocricetus auratus*);

domesticated races of rats or mice (white or albino; trained, dancing or spinning, laboratory-reared); and domestic strains of guinea pig (*Cavia porcellus*).

Carnivora (carnivores) All species prohibited except domestic dogs (*Canis familiaris*) and domestic cats (*Felis catus*). Hybrid crosses

between two species in Order Carnivora (including domestic species) are also prohibited.

Tubulidentata (aardvarks) All species prohibited

Proboscidea (elephants) All species prohibited

Hyracoidea (hyraxes) All species prohibited

Sirenia (dugongs, manatees) All species prohibited

Perissodactyla (horses, tapirs, rhinoceroses, etc.) All species prohibited except those of the family Equidae.

Artiodactyla (peccaries, giraffes, camels, antelopes, etc.)

All species prohibited

Afrosoricidae (golden moles, tenrecs) All species prohibited

Diprotodontia (sugar gliders) All species prohibited

Cingulata (New World armadillos) All species prohibited

Macroscelidae (elephant shrews) All species prohibited

Pilosa (3 toed sloths) All species prohibited

Macroscelidae (elephant shrews) All species prohibited

Scandentia (tree shrews) All species prohibited

Soricomorpha (shrews) All species prohibited

Dasyuromorphia (Tasmanian Devils, numbats, etc.)

All species prohibited

Peramelemorphia (bandicoots, bilbys) All species prohibited

Erinaceomorpha (African pygmy hedgehogs) All species prohibited

Microbiotheria (monito del monte) All species prohibited

Cetacea (whales, dolphins) All species prohibited

Notoryctemorphia (marsupial moles) All species prohibited

Paucituberculata (shrew possums) All species prohibited

§61-30-4. Caging.

4.1. Animals included on the Dangerous Wild Animal list shall be caged in accordance with;

4.1.1. USDA Animal Care Use Animal Welfare Act and Animal Welfare Regulations.

§61-30-5. Fees.

5.1. Applicants shall pay \$100 fee for each animal that the Dangerous Wild Animal Board approves the applicant to possess.

5.2. Fees shall be made payable to the "West Virginia Department of Agriculture."

§61-30-6. Annual Review.

6.1. The Dangerous Wild Animal Board shall meet annually by June 1st to review the list of prohibited Dangerous Wild Animals and submit any updates for legislative review in accordance with West Virginia Code §19-34-1 et seq.

6.2. The Dangerous Wild Animal Board shall meet annually on or by December 1st to review permits in order to issue permits effective for the next calendar year beginning January 1st.

6.2.1. On or by the first day of December each year the board shall meet to determine if animals should be added. The Board may meet to address any other issues that pertain to Dangerous Wild Animals.