

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

Form #4

Do Not Mark In This Box

FILED

2015 OCT 29 A 10:05

OFFICE WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF RULE MODIFICATION OF A PROPOSED RULE

AGENCY: DOC, DNR, Wildlife Resources Section TITLE NUMBER: 58

CITE AUTHORITY: 20-1-7(30) and 20-2-5h

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: 74

TITLE OF RULE BEING PROPOSED: Elk Restoration and Management Rule

THE ABOVE PROPOSED LEGISLATIVE RULES, FOLLOWING REVIEW BY THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE, IS HEREBY MODIFIED AS A RESULT OF REVIEW AND COMMENT BY THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE. THE ATTACHED MODIFICATIONS ARE FILED WITH THE SECRETARY OF STATE.


Authorized Signature

58CSR74

FILED

2015 OCT 29 A 10:05

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

OFFICE WEST VIRGINIA
SECRETARY OF STATE

**SERIES 74
ELK RESTORATION AND MANAGEMENT RULE**

§58-74-1. General.

- 1.1. Scope and Purpose. -- This rule establishes guidelines and protocols relating to the West Virginia Division of Natural Resource's elk management program.
- 1.2. Authority. -- W. Va. Code §20-1-7(30) and 20-2-5h.
- 1.3. Filing Date. --
- 1.4. Effective Date. --

§58-74-2. Definitions.

2.1. "Accredited Veterinarian" means any veterinarian accredited by APHIS and approved by the Animal Health Official of the state where the veterinarian is doing business.

2.2. "APHIS" means the Animal and Plant Health Inspection Service or its successor agency of the United States Department of Agriculture.

2.3. "Certificate of Veterinary Inspection (CVI)" means an official form issued by an accredited veterinarian in the state of origin and approved by the Animal Health Official of the state of origin listing all animals (with an accurate description and official identification) covered by the certificate and the findings of the health of the animals covered by the certificate. In addition, the CVI shall contain the names and address of the consignor and the consignee of the animals, the vaccinations that the animals may have received and the dates the vaccinations occurred. The CVI is void thirty (30) days after issuance.

2.4. "Division" means the West Virginia Division of Natural Resources.

2.5. "Elk Management ~~Zone Area~~ or ~~EMZ-EMA~~" means a designated area in which the West Virginia Division of Natural Resources plans to establish and manage a wild free-ranging elk population. The specific ~~EMZ-EMA~~ boundaries are identified in the Division's Elk Management Plan. The Division may not expand the ~~EMZ-EMA~~ without statutory authorization (W. Va. Code 20-2-5h).

§58-74-3. Elk Management Plan.

- 3.1.c.3. Designation of an ~~EMZ~~ EMA
- 3.1.c.4. Setting of elk population objectives
- 3.1.c.5. Habitat and large landowner GIS-based analysis
- 3.1.c.~~7~~6. Selection of elk release areas
- 3.1.c.~~8~~7. Development of disease testing and health monitoring protocols
- 3.1.c.~~9~~8. Information and educational efforts – promoting public awareness
- 3.1.c.~~10~~9. Population monitoring protocols and research
- 3.1.c.~~11~~10. Habitat management efforts
- 3.1.c.~~12~~11. Strategies to increase public access to ~~EMZ~~ EMA
- 3.1.c.~~13~~12. Approaches to minimize elk/human sociological conflicts

§58-74-4. Management of Elk Outside of the Elk Management Zone Area.

4.1. The Division shall address elk which move outside of the ~~EMZ~~ EMA on a case by case basis to minimize adverse impacts to landowners and loss of individual elk that are essential to elk restoration success. Furthermore, as the active elk restoration program develops, the Division will develop appropriate procedures to address elk located outside of the ~~EMZ~~ EMA.

§58-74-5. Disease Testing and Monitoring.

5.1. The Division shall not import any elk from a population known to be infected with and/or not routinely post mortem tested for the abnormal prion associated with chronic wasting disease of deer and elk.

5.2. The Division shall not import any elk into the state without a valid CVI issued by an accredited veterinarian.

5.2.a. The CVI shall indicate that the animal has had a negative tuberculosis test within 2 months prior to the importation.

5.2.b. The CVI shall indicate that the animal has had a negative brucellosis test within 1 month prior to the importation of the animal.

5.2.c. The Division shall consider the requirement of negative test results in 5.2.a. and 5.2.b. as minimum requirements for importation of elk captured from the wild from the Kentucky or Virginia Elk Management Zones, but shall require additional disease testing for any elk imported from outside of the Kentucky and Virginia Elk Management Zones on a case by case basis.

5.3. For purposes of this section, the tuberculosis test shall use the single cervical test as prescribed by the United States Department of Agriculture on December 31, 1990 or equivalent approved test (DPP Test Dual Path Platform Test, April 2014), approved by USDA APHIS Veterinary Services and all elk captured from the wild and confined with the elk to be imported shall have a negative tuberculosis test or negative post mortem culture.

58CSR74

5.4. The Division shall notify the Commissioner of the West Virginia Department of Agriculture (WVDA) of its intent to import elk into the state a minimum of one (1) week prior to transporting animals into the state.