

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

Form #2

Do Not Mark In This Box

FILED

2016 JAN 11 P 3:45

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: 30

TITLE OF RULE BEING AMENDED: Dangerous Wild Animal <sup>Rule</sup> Repeal

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: \_\_\_\_\_

TITLE OF RULE BEING PROPOSED: \_\_\_\_\_

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 Feb. 10, 2016 AT 4:00 ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS:

West Virginia Department of Agriculture  
1900 Kanawha Boulevard, Eat  
Charleston, WV 25305

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



Authorized Signature

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

61CSR30 was filed in error. Therefore the West Virginia Department of Agriculture is requesting that it be repealed and filed as Title 74 Series 1 on behalf of the Dangerous Wild Animal Board.

APPENDIX B

**FISCAL NOTE FOR PROPOSED RULES**

Rule Title: Dangerous Wild Animal

Type of Rule:  Legislative  Interpretive  Procedural

Agency: Dangerous Wild Animal Board

Address: West Virginia Department of Agriculture  
Animal Health Division  
1900 Kanawha Boulevard, East  
Charleston, WV 25305

Phone Number: 304-558-2214 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 \$10.00 application fee, \$150 fee per each mammal, \$100 per reptile, other than snakes, \$50.00 per each snake, but at this time there is no data or information available to determine the number of animals that are currently owned.

**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

Rule Title: Dangerous Wild Animal

Rule Title: \_\_\_\_\_

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

**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.

Date: July 2, 2014

Signature of Agency Head or Authorized Representative

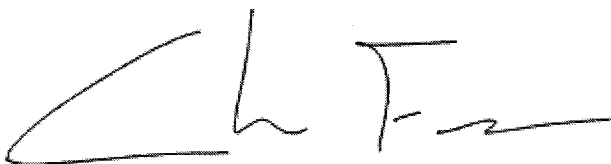


## Statement of Circumstances

**The Dangerous Wild Animal Board has amended this proposed rule due to the numerous public comments received and reviewed. The majority of the comments received were against specific animals including; but not limited to sugar gliders, savannah cats, turtles, hedgehogs, ferrets, geckos, tetra fish, and guinea pigs. There were also numerous comments regarding the pet store industry, and the negative impact the banning of such animals would cause.**

**The fee structure has also been amended, and a \$10.00 application fee added to the rule. After further review of caging standards the board agreed upon referencing the Zoological Association of America (ZAA) Animal Care & Enclosure Standards, 2014, or the most current edition.**

**The format of the proposed list filed with the Secretary of State's office on July 2, 2014 was simplified for easier understanding. Also, scientific names for animals were used, and exemptions for animals covered under Chapter 19, and Chapter 20 of the West Virginia Code were not listed clearly in the proposed rule. The original list filed for public comment does not appear numbered in the rule. In the amended rule, the list appears numbered to separate the species.**

A handwritten signature in black ink, appearing to be 'Ch F' followed by a horizontal line.

**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 Animals  
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 §19-34-3~~

1.3. ~~Filing Date. — April 14, 2015~~

1.4. ~~Effective Date. — June 1, 2015~~

**§61-30-2. Definitions.**

2.1. ~~“Animal Welfare Act” means a law passed by the United States Congress in 1966 7 U.S.C. §2132 (e) in which sets for caging standards to help protect animals from inhumane treatment.~~

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

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

2.4. ~~“Caging Requirements” means standards which a cage must meet to confine mammals, birds, reptiles, amphibians, or aquatic animals to prevent escape.~~

2.5. ~~“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, or their respective designees, which oversees and regulates dangerous wild animals, and issues and revokes permits~~

2.6. ~~“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.~~

2.7. ~~“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.~~**

~~3.1. A person may not possess any dangerous wild animal on the following list without first obtaining a permit from the Board:~~

- ~~3.1.a. Hyenas;~~
- ~~3.1.b. Gray wolves, excluding hybrids;~~
- ~~3.1.c. Lions;~~
- ~~3.1.d. Tigers;~~
- ~~3.1.e. Jaguars;~~
- ~~3.1.f. Leopards, including clouded leopards, Sunda clouded leopards, and snow leopards; and~~
- ~~3.1.g. All of the following, including hybrids with domestic cats unless otherwise specified:~~
  - ~~3.1.g.1. Cheetahs;~~
  - ~~3.1.g.2. Lynxes, including Canadian lynxes, Eurasian lynxes, and Iberian lynxes;~~
  - ~~3.1.g.3. Cougars, also known as pumas or mountain lions; and~~
  - ~~3.1.g.4. Caracals.~~
- ~~3.1.h. Bears; (excluding black bears native to this state);~~
- ~~3.1.i. Elephants;~~
- ~~3.1.j. Rhinoceroses;~~
- ~~3.1.k. Hippopotamuses;~~
- ~~3.1.l. Cape buffalo;~~
- ~~3.1.m. African wild dogs;~~
- ~~3.1.n. Komodo dragons;~~
- ~~3.1.o. Nonhuman primates, excluding:~~
  - ~~3.1.o.1. Lemurs;~~
  - ~~3.1.o.2. Golden lion, black faced lion, golden-rumped lion, cotton top, emperor, saddlebacked, blackmantled, and Geoffroys tamarins;~~
  - ~~3.1.o.3. Southern and northern night monkeys;~~
  - ~~3.1.o.4. Dusky titi and masked titi monkeys;~~
  - ~~3.1.o.5. Muriquis;~~
  - ~~3.1.o.6. Goeldi's monkeys;~~
  - ~~3.1.o.7. White-faced, black-bearded, white-nose bearded, and monk sakis;~~
  - ~~3.1.o.8. Bald and black uakaris;~~
  - ~~3.1.o.9. Black-handed, white-bellied, brown-headed, and black spider monkeys;~~
  - ~~3.1.o.10. Common woolly monkeys; and~~
  - ~~3.1.o.11. Red, black, and mantled howler monkeys.~~

**~~§61-30-4. Caging.~~**

~~4.1. Animals listed in this section shall be caged in accordance with Zoological Association of American (ZAA) Animal Care & Enclosure Standards, 2014 Edition.~~

**~~§61-30-5. Fees.~~**

~~5.1. An applicant shall annually submit a \$10.00 application fee to the West Virginia Department of Agriculture in order to register all dangerous wild animals in his or her possession and shall also submit the following fees for any of the following animals which he or she possesses:~~

~~5.1.a. A \$150.00 fee for each mammal;~~

~~5.1.b. A \$100.00 fee for each reptile, other than snakes;~~

~~5.1.c. A \$50.00 fee for each snake.~~

~~**§61-30-6. Annual Review.**~~

~~6.1.— The Dangerous Wild Animal Board shall meet annually by June 1<sup>st</sup> to review the list of prohibited Dangerous Wild Animals set forth in section three of this rule.~~

~~6.2. The Dangerous Wild Animal Board shall meet annually on or by December 1<sup>st</sup> to review current permits in order to make permits effective for the next calendar year beginning January 1<sup>st</sup>.~~

~~6.2.a. On or by December 1<sup>st</sup> each year the board shall meet to determine if animals should be added to the list.~~