



**WEST VIRGINIA
SECRETARY OF STATE**

MAC WARNER

ADMINISTRATIVE LAW DIVISION

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OFFICE OF
WEST VIRGINIA SECRETARY OF STATE

**FORM 1 -- NOTICE OF A PUBLIC HEARING OR COMMENT PERIOD ON A PROPOSED RULE
(Page 1)**

AGENCY Natural Resources

RULE TYPE Legislative **AMENDMENT TO EXISTING RULE** Yes **TITLE-SERIES** 58-64

RULE NAME Miscellaneous Permits and Licenses

CITE AUTHORITY §§20-1-7(20), 20-1-7(30)

COMMENTS LIMITED TO
Written

DATE OF PUBLIC HEARING

LOCATION OF PUBLIC HEARING

DATE WRITTEN COMMENT PERIOD ENDS
Monday, July 24, 2017 5:00 PM

WRITTEN COMMENTS MAY BE MAILED TO
Wendy L. Greene
WV Division of Natural Resources
324 4th Avenue, Room 343
South Charleston, WV 25303
You may email written comments to Wendy.L.Greene@wv.gov

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENTS ARE TRUE AND CORRECT.

Yes
Patricia J White -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



Title-Series: 58-64



Rule Id: 16494



Document: 49500



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**FORM 1 -- NOTICE OF A PUBLIC HEARING OR COMMENT PERIOD ON A PROPOSED RULE
(Page 2)**

AGENCY Natural Resources

RULE TYPE Legislative **AMENDMENT TO EXISTING RULE** Yes **TITLE-SERIES** 58-64

RULE NAME Miscellaneous Permits and Licenses

CITE AUTHORITY §§20-1-7(20), 20-1-7(30)

PROVIDE A BRIEF SUMMARY OF YOUR PROPOSAL

Series 58-64 revises the current Miscellaneous Permits and Licenses Rule. Revisions to this rule include modified language relating to shoot-to-retrieve field trials which brings the rule in compliance with legislation passed in 2017 relating to hunting on Sundays as per W. Va. Code §20-2-5.

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENTS ARE TRUE AND CORRECT.

Yes

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FORM 11 -- FISCAL NOTE FOR PROPOSED RULES (Page 1)

AGENCY Natural Resources

RULE TYPE Legislative **AMENDMENT TO EXISTING RULE** Yes **TITLE-SERIES** 58-64

RULE NAME Miscellaneous Permits and Licenses

CITE AUTHORITY §§20-1-7(20), 20-1-7(30)

PRIMARY CONTACT

Wendy L. Greene
324 4th Avenue
Room 343
South Charleston, WV 25303

Patricia J White -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



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FORM 11 -- FISCAL NOTE FOR PROPOSED RULES (Page 1)

AGENCY Natural Resources

RULE TYPE Legislative **AMENDMENT TO EXISTING RULE** Yes **TITLE-SERIES** 58-64

RULE NAME Miscellaneous Permits and Licenses

CITE AUTHORITY §§20-1-7(20), 20-1-7(30)

SUMMARIZE IN A CLEAR AND CONCISE MANNER WHAT IMPACT THIS MEASURE WILL HAVE ON COSTS AND REVENUES OF STATE GOVERNMENT.

There is no change anticipated to the administrative expenditures as a result of this rule revision.

Patricia J White -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



Title-Series: 58-64



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FORM 11 -- FISCAL NOTE FOR PROPOSED RULES (Page 2)

AGENCY Natural Resources

RULE TYPE Legislative **AMENDMENT TO EXISTING RULE** Yes **TITLE-SERIES** 58-64

RULE NAME Miscellaneous Permits and Licenses

CITE AUTHORITY §§20-1-7(20), 20-1-7(30)

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.

Effect Of Proposal	Current Increase/Decrease (use ' - ')	Next Increase/Decrease (use ' - ')	Fiscal Year (Upon Full Implementation)
ESTIMATED TOTAL COST	0.00	0.00	0.00
PERSONAL SERVICES			
CURRENT EXPENSES			
REPAIRS AND ALTERATIONS			
ASSETS			
OTHER			
ESTIMATED TOTAL REVENUES	0.00	0.00	0.00

Patricia J White -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



Title-Series: 58-64



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FORM 11 -- FISCAL NOTE FOR PROPOSED RULES (Page 3)

AGENCY Natural Resources

RULE TYPE Legislative AMENDMENT TO EXISTING RULE Yes TITLE-SERIES 58-64

RULE NAME Miscellaneous Permits and Licenses

CITE AUTHORITY §§20-1-7(20), 20-1-7(30)

3. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT). PLEASE INCLUDE ANY INCREASE OR DECREASE IN FEES IN YOUR ESTIMATED TOTAL REVENUES.

There is no change anticipated to the administrative expenditures as a result of this rule revision

Patricia J White -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



Title-Series: 58-64



Rule Id: 16494



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FORM 11 -- FISCAL NOTE FOR PROPOSED RULES (Page 4)

AGENCY Natural Resources

RULE TYPE Legislative **AMENDMENT TO EXISTING RULE** Yes **TITLE-SERIES** 58-64

RULE NAME Miscellaneous Permits and Licenses

CITE AUTHORITY §§20-1-7(20), 20-1-7(30)

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.

Revisions to this rule include: modified language relating to shoot-to-retrieve field trials which brings the rule in compliance with legislation passed in 2017 relating to hunting on Sundays as per W. Va. Code §20-2-5.

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENTS ARE TRUE AND CORRECT.

Patricia J White -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



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FORM 12 -- BRIEF SUMMARY AND STATEMENT OF CIRCUMSTANCES (Page 1)

AGENCY Natural Resources

RULE TYPE Legislative **AMENDMENT TO EXISTING RULE** Yes **TITLE-SERIES** 58-64

RULE NAME Miscellaneous Permits and Licenses

CITE AUTHORITY §§20-1-7(20), 20-1-7(30)

SUMMARIZE IN A CLEAR AND CONCISE MANNER CONTENTS OF CHANGES IN RULE AND STATEMENT OF CIRCUMSTANCES REQUIRING THE RULE.

The purpose of this rule is to establish 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. Series 58-64 revises the current Miscellaneous Permits and Licenses Rule. Revisions to this rule include modified language relating to shoot-to-retrieve field trials which brings the rule in compliance with legislation passed in 2017 relating to hunting on Sundays as per W. Va. Code §20-2-5.

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENTS ARE TRUE AND CORRECT.

Yes

Patricia J White -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



Title-Series: 58-64



Rule Id: 16494



Document: 49500

58CSR64

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

**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 17, 2017.~~

1.4. Effective Date. -- ~~May 22, 2017.~~

1.5. Sunset Provision. -- This rule shall terminate and have no further force or effect on May 22, 2022.

§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 W. Va. Code §20-2 et seq.

2.1.a. 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.a.1. 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.a.2. 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.a.3. 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.b. 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.b.1. A fish pond license to raise and sell fish, frogs, turtles, or other forms of aquatic life.

2.1.b.2. A fish sales license to buy and resell fish, frogs, turtles, or other forms of aquatic life.

2.1.c. 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 legally taken by the applicant during the open hunting or trapping season established under 58 CSR 45 (W. Va. Code §20-2-51).

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

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

2.1.h. 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 the State of West Virginia occurring either in a natural state or in captivity, except house mice or rats, and includes coyotes and porcupines and all species of cervids. The term wild animals does not include captive cervids owned and possessed by persons licensed pursuant to article two-h, chapter nineteen of this code.

2.11. "Wild Birds" means all birds other than: (a) Domestic poultry — chickens, ducks, geese, guinea fowl, peafowls and turkeys; (b) psittacidae, commonly called parrots and parakeets; and (c) other foreign cage birds such as the common canary, exotic finches and ring dove. All wild birds, either: (i) Those occurring in a natural state in West Virginia; or (ii) those imported foreign game birds, such as waterfowl, pheasants, partridges, quail and grouse, regardless of how long raised or held in captivity, shall remain wild birds under the meaning of this chapter.

2.12. "Commercial dealer" means a licensee holding a license as defined in Section 2.1.1.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. "Cervid" is any member of the deer family, both native and exotic. For the purposes of this rule, this definition does not include captive cervids owned or possessed pursuant to W. Va. Code §19-2H.

2.17. 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.a. 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, 324 Fourth Avenue, South Charleston, West Virginia

25303.

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 cash, 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. 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. A commercial shooting preserve license issued under W. Va. Code §20-2-54 expires on June 30 of the fiscal year of issue. All other permits and licenses issued under this rule expire on December 31 of the 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 month prior to the date upon which his permit or license expires.

4.2.a. 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.b. 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.a. 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.b. 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.c. 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.a. 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.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.

7.1.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.

7.1.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.

7.1.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.

7.1.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.

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

7.1.g.1. Wildlife held under the authority of this license which escapes or disperses from the facility and poses no threat to the public or to the State's wildlife shall become the property of the State.

7.1.g.2. Wildlife held under the authority of this license which escapes or disperses from the facility and poses a potential threat to the public safety or to the State's wildlife may be disposed of by the Division personnel.

7.1.h. 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.i. 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.j. The licensee must obey Division rules governing the commercial sale of wildlife (58 CSR 63).

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

7.1.l. Accurate and current records of all wildlife acquisitions and sales or possession transfer shall be maintained by the licensee on forms provided by the Director. 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 ten (10) 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.l.1. The seller's name and address.

7.1.l.2. The seller's commercial game farm license number.

7.1.l.3. The date of the sale.

7.1.l.4. The purchaser's name and address.

7.1.l.5. A description of the wildlife sold or transferred, including the number of each species sold or transferred.

7.1.m. 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.a. 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.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.

7.2.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.

7.2.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.

7.2.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.

7.2.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.

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

7.2.g.1. Wildlife held under the authority of this license which escapes or disperses from the facility and poses no threat to the public or to the State's wildlife shall become the property of the State.

7.2.g.2. Wildlife held under the authority of this license which escapes or disperses from the facility and poses a potential threat to the public safety or to the State's wildlife may be disposed of by the Division personnel.

7.2.h. 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.i. 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.j. The licensee must obey Division rules governing the commercial sale of wildlife (58 CSR 63).

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

7.2.l. 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 7.2.s. below.

7.2.m. This license authorizes the holder to purchase, hold, and release into hound coursing/training pens, under terms and conditions of the license, live racoons and foxes 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 this purpose. This license will not be issued for coyote.

7.2.n. 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.o. 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.p. 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.q. 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.r. This license does not authorize the licensee to transfer possession or resell wildlife.

7.2.s. 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.t. Stocking rates of raccoon and fox shall not exceed one (1) animal per ten (10) acres in hound coursing/training pens.

7.2.u. A maximum of one (1) dog per fifteen (15) acres is permitted in raccoon and fox hound coursing/training pens.

7.2.v. 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.w. Artificial cover, in the form of dog proof escape pens, shall be provided if natural escape cover is not adequate.

7.2.x. 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.y. 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.z. 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.a. 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.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.

7.3.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.

7.3.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.

7.3.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.

7.3.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.

7.3.g. 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.g.1. 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.g.1. 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.h. 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.i. 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.j. The licensee must obey Division rules governing the commercial sale of wildlife (58 CSR 63).

7.3.k. 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.l. 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.m. 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.n. 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.o. 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.

7.3.p. 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.q. 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.r. 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.s. This license does not authorize the licensee to transfer possession or resell wildlife.

7.3.t. 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.u. 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.v. 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.w. 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.a. The licensee must assure that his plant or pond does not interfere with the free passage of fish.

7.4.b. The licensee must assure that any water diverted to his plant or pond does not violate the riparian rights of other landowners.

7.4.c. 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.d. 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.e. The licensee must obey Division rules governing the commercial sale of wildlife (58 CSR 63).

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

7.5.b. 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.a. Cages, pens, or other enclosures housing wild pets must meet the minimum requirements set forth in Appendix A.

7.6.b. 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.c. 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.d. 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.e. 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.f. Pets must not be tortured, molested, or abused in any manner.

7.6.g. Pets must not be used in the training of hunting dogs.

7.6.h. 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 W. Va. Code §20-2-47.

7.6.h.1. Pets lawfully taken by the applicant in West Virginia during an open hunting or trapping season must be checked and recorded by a natural resources police officer.

7.6.h.2. 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.i. 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 W. Va. Code §20-2-47.

7.6.j. Cervids can not be held under this permit.

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

7.6.k.1. Wildlife held under the authority of this license which escapes or disperses from the facility and poses no threat to the public or to the State's wildlife shall become the property of the State.

7.6.k.2. Wildlife held under the authority of this license which escapes or disperses from the facility and poses a potential threat to the public safety or to the State's wildlife may be disposed of by the Division personnel.

7.7. Roadside Menagerie Permit. The following terms and conditions will apply for this permit.

7.7.a. 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.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.

7.7.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.

7.7.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.

7.7.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.

7.7.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.

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

7.7.g.1. Wildlife held under the authority of this license which escapes or disperses from the facility and poses no threat to the public or to the State's wildlife shall become the property of the State.

7.7.g.2. Wildlife held under the authority of this license which escapes or disperses from the facility and poses a potential threat to the public safety or to the State's wildlife may be disposed of by the Division personnel.

7.7.h. 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.i. 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.j. 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.k. Visitor contact with the following designated animals may be permitted under the conditions specified:

7.7.k.1. Visitor contact with buffalo may be allowed until the animal is six (6) months of age.

7.7.k.2. 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.k.3. 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.l. 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 W. Va. Code §20-2-47.

7.7.l.1. The acquisition of wildlife shall be for the sole purpose of maintaining stock for the menagerie.

7.7.l.2. Wildlife lawfully taken by the applicant in West Virginia during an open hunting or trapping season must be checked and recorded by a natural resources police officer.

7.7.l.3. 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.m. 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.n. The Division must be notified in writing within fifteen (15) days after disposal or death of any wildlife held at the menagerie.

7.7.o. Accurate and current records must be maintained concerning all wildlife acquisitions and disposals. 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.

7.7.p. 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 W. Va. Code §20-2-47.

7.7.q. This permit does not authorize the holder to keep mammals that are not native to West Virginia.

7.7.r. The permittee must display his permit in plain view at the entrance to the menagerie.

7.7.s. Cervids cannot be held or displayed under a menagerie permit.

7.8. Commercial Fishing Preserve License. The following terms and conditions will apply for this license.

7.8.a. 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.b. All fish to be stocked in a fishing preserve must be either obtained from a commercial dealer licensed by the Division under W. Va. Code §20-2-48 or imported under a permit issued by the Division under W. Va. Code §20-2-12.

7.8.c. 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.d. 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.e. 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.e.1. The name and license number of the preserve owner.

7.8.e.2. The address of the fishing preserve.

7.8.e.3. The number and species of fish taken.

7.8.e.4. The date the fish were taken.

7.8.e.5. The name and address of the customer.

7.8.f. 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.a. Preserve Size and Boundaries.

7.9.a.1. 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 (50) 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.a.2. 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.a.3. 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.a.4. The licensee must display his license in plain view at the entrance to the shooting preserve.

7.9.b. Preserve Wildlife.

7.9.b.1. Native wildlife means game animals and game birds, as defined in W. Va. Code §20-1-2, found in a wild and natural state within the boundaries of the shooting preserve.

7.9.b.2. 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. Cervids are regulated under the Captive Cervid Farming Act, W. Va. Code §19-2H-1 et. seq.

7.9.b.3. Stocked wildlife may include any of the following: game birds (except wild turkey), non-native game birds (such as chukar partridges), rabbits, or the hoofed stock of the families Suidae (boar) and Bovidae (buffalo). Shooting preserves which have cervids must operate the Captive Cervid Farming Act, W. Va. Code §19-2H-1 et. seq.

7.9.b.4. 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.b.5. 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 W. Va. Code §20-2-47.

7.9.b.6. 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 W. Va. Code §20-2-12.

7.9.c. Hunting License Requirements.

7.9.c.1. A West Virginia resident must possess a valid Class A or AH license to hunt for small game and a Class BG stamp to hunt additional big game species, or a Class X, Class XJ, Class AHJ, 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 W. Va. Code §§20-2-27, 20-2-28, or 20-2-62.

7.9.c.2. A nonresident must possess a valid Class E, AAH, XXJ or AAHJ license to hunt native

wildlife or stocked wildlife on the shooting preserve or a valid Class J shooting preserve license to hunt stocked small game species.

7.9.d. Hunting Seasons and Bag Limits.

7.9.d.1. 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.d.2. 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. Hunting is prohibited on Sundays except in those counties where Sunday hunting has not been prohibited by local election.

7.9.d.3. 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, ring-necked pheasant, chukar partridge, and other non-native game species.

7.9.d.4. 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.e. Tagging of Harvested Game.

7.9.e.1. 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.e.2. The numbered tagging system approved by the Director must be used by the licensee.

7.9.f. Care of Stocked Wildlife.

7.9.f.1. 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.f.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.

7.9.f.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.

7.9.f.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.

7.9.f.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.

7.9.f.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.

7.9.f.7. Any damage or injury resulting from the escape or dispersal of wildlife held under the authority of this license shall be the sole responsibility of the licensee.

7.9.f.7.A. Wildlife held under the authority of this license which escapes or disperses from the facility and poses no threat to the public or to the State's wildlife shall become the property of the State.

7.9.f.7.B. Wildlife held under the authority of this license which escapes or disperses from the facility and poses a potential threat to the public safety or to the State's wildlife may be disposed of by the Division personnel.

7.9.g. Record Keeping.

7.9.g.1. The licensee must maintain accurate and current records of all wildlife purchased for, imported to, or raised at the shooting preserve.

7.9.g.1.A. Records of wildlife purchased for the shooting preserve must include a bill of sale for all wildlife acquired.

7.9.g.A.1. 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.g.A.1.(a). 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.g.2. 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.g.3. 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.g.4. 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.h. Shooting Preserve Reports.

7.9.h.1. 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.a. The licensee must obey Division rules governing the catching and selling of bait fish (58 CSR 62).

7.11. Permit to hold a field trial, shoot-to-retrieve field trial, water race or wild hunt.

7.11.a. The following terms and conditions will apply to all field trial permits except for a Shoot-to-Retrieve Field Trial Permit.

7.11.a.1. Wildlife may not be taken under this permit.

7.11.a.2. The permit conveys no right to trespass.

7.11.a.3. The permit shall be valid in no more than two (2) counties and for no more than three (3) days.

7.11.a.4. A field trial or a wild hunt may be held on a Sunday; a water race may be held on a Sunday.

7.11.a.5. No person participating in the trial, race, or hunt may have a firearm or bow in his possession.

7.11.s.6. 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.

7.11.b. The following terms and conditions will apply for a Shoot-to-Retrieve Field Trial.

7.11.b.1. Only stocked game birds may be pursued and taken during the trial.

7.11.b.2. The permit conveys no right to trespass.

7.11.b.3. The permit shall be valid in one county only and for no more than three (3) days.

7.11.b.4. ~~A shoot to retrieve field trial may be held on a Sunday in those counties where Sunday hunting has not been prohibited by local election.~~ Sunday hunting is legal in accordance with the provisions of W. Va. Code §20-2-5.

7.11.b.5. 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.a. 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.b. The condition being appealed will remain in effect until the director decides to grant the requested modification and so informs the licensee.

9.1.c. 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. 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

2. Buffalo

a. Cage size for one animal

- 1) 5,000 square foot enclosure.

b. Cage size for each additional animal

- 1) Increase enclosure area by 25%

c. Accessories

- 1) Roofed shelter
- 2) DANGEROUS - DO NOT MOLEST signs

3. 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

4. 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
- 4) Cage sizes for ranch fox may conform to acceptable and reasonable industry standards.

b. Accessories

- 1) 2'L by 30"W by 30"H roofed shelter
- 2) DANGEROUS - DO NOT MOLEST signs

5. 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

6. 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

7. 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

8. River Otters, Fishers, Minks or Weasels

- a. Cage size for one pair
 - 1) 10'L by 6'W by 6'H
 - 2) Cage size for ranch mink may conform to acceptable and reasonable industry standards.

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

9. 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

10. 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

11. 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

12. Grouse, Pheasants, Quail or Doves

- a. Cage size for one to five birds
 - 1) 100 square foot enclosure with 6'H fence
 - 2) Cage sizes for the propagation and raising of game birds may conform to acceptable and reasonable industry standards.
- b. Cage size for each additional bird
 - 1) Increase enclosure area by 20 square feet
- c. Accessories
 - 1) Dusting area

13. 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%

14. 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.

15. 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.