



WEST VIRGINIA SECRETARY OF STATE

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ADMINISTRATIVE LAW DIVISION

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Office of West Virginia
Secretary Of State

NOTICE OF RULE MODIFICATION OF A PROPOSED RULE

AGENCY: Natural Resources

RULE TYPE: Legislative

TITLE-SERIES: 58-21

RULE NAME: Wildlife Rehabilitation

CITE AUTHORITY: §20-2D-3(f)

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.

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.

Yes

Garner Marks -- 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 58
LEGISLATIVE RULE
DEPARTMENT OF COMMERCE
DIVISION OF NATURAL RESOURCES

SERIES 21
WILDLIFE REHABILITATION

§58-21-1. General.

1.1. Scope. -- This rule establishes regulations concerning a wildlife rehabilitation program including the application requirements, permit eligibility requirements, permit renewal requirements, record keeping requirements, care and housing requirements, and definitions.

1.2. Authority. -- W. Va. Code §20-2D-3(f).

1.3. Filing Date. --

1.4. Effective Date. --

1.5. Sunset Provision. -- This rule shall terminate and have no further force or effect on August 1, 2031.

§58-21-2. Definitions.

2.1. "Certified Wildlife Rehabilitator or CWR" means a person who has received this designation through certification by the International Wildlife Rehabilitation Council.

2.2. "IWRC" means the International Wildlife Rehabilitation Council.

2.3. "Orphan wildlife" means any healthy or injured young animal, still dependent on parental care for survival, that is found under circumstances in which there is a high probability that the parents are dead or not available.

2.4. "Rabies vector species or RVS" means mammals that frequently carry or are common carriers of the rabies virus including racoons, red foxes, gray foxes, striped skunks, coyotes, and all species of bats.

2.5. "Threatened or endangered species" means species that are likely to become endangered or species at serious risk of extinction as designated by the United States Fish and Wildlife Service.

2.6. All other terms have the meaning prescribed in W. Va. Code §20-1-2.

§58-21-3. Wildlife Rehabilitation Permit requirements.

3.1. An applicant for a wildlife rehabilitation permit must submit an application to the Director or his or her designee on the forms prescribed by the Director.

3.2. The application form shall require the following information:

3.2.1. The applicant's name, business name, if applicable, mailing address, physical address of the facility, email address, and telephone number.

3.2.2. The applicant's date of birth.

3.2.3. The applicant's disclosure of any criminal convictions of Federal, State, or local law or ordinance relating to wildlife, animal welfare, or animal cruelty.

3.2.4. Proof of wildlife handling and care training requirements pursuant to Section 4 of this rule.

3.2.5. List of any in-facility assistants, their age and training.

3.3. An applicant must pass a facility inspection by the Director or his or her Wildlife Resources section designee. Unless otherwise specified by this rule, the facility must follow the standards in the Standards for Wildlife Rehabilitation as established by the IWRC.

3.4. A permit holder of a wildlife rehabilitation permit must submit an annual renewal application to the Director or his or her designee on the forms prescribed by the Director.

3.5. The annual renewal application form shall require the following information:

3.5.1. Annual records required pursuant to Section 7 of this rule.

3.5.2. Any changes to the permittee's information of record.

3.5.3. Any requested changes in species to be rehabilitated.

§58-21-4. Training Requirements.

4.1. Applicants must submit verification of current active status as a Certified Wildlife Rehabilitator issued by the IWRC.

4.2. All in-facility assistants must submit verification of a degree in animal science or veterinary technology, or successfully passing the Basic Wildlife Rehabilitation class offered through the IWRC.

4.3. Employees or volunteers may provide assistance in a wildlife rehabilitation facility under the direct supervision of the certified wildlife rehabilitator or approved in-facility assistant. For purposes of this section, direct supervision means the supervising rehabilitator must be physically present and immediately available to provide assistance and direction at all times.

§58-21-5. Wildlife Rehabilitation.

5.1. The Director may prohibit the rehabilitation of wildlife species to protect public health and protect the welfare of native wildlife.

5.2. Wildlife having or suspected of having infectious diseases must be kept isolated from all non-infected but susceptible wildlife. Newly acquired wildlife must be housed separately upon receipt until it has been established that they are free from infectious diseases that can be transmitted to other wildlife.

5.3. Unless otherwise specified in this rule, wildlife rehabilitators must adhere to the best practices and standards for wildlife rehabilitation as established by the IWRC.

5.4. Wildlife captured, trapped, or otherwise collected by a licensed Wildlife Damage Control Agent may not be accepted for rehabilitation.

5.5. No individual wildlife may be rehabilitated by a permit holder for more than 180 days, unless otherwise approved by the Director.

5.6. Rehabilitated wildlife may not be released on private or public lands without written landowner permission.

5.7. Wildlife may be transferred to another permitted facility within the first 24 hours of captivity when a wildlife rehabilitation facility is at capacity. Transfers must be made to the nearest lawfully permitted facility capable of caring for the wildlife. If no facility is available, the wildlife must be euthanized or turned over to the Director or his or her designee.

5.8. The Director must provide written approval for non-releasable wildlife to be retained by a wildlife rehabilitator in accordance with W. Va. Code §20-2D-6(d).

5.9. Wildlife being rehabilitated must be housed separately from domestic animals or livestock in a manner that prepares them for return to the wild and reduces the likelihood of habituation to humans.

5.10. Permit holders must keep accurate and complete records of all wildlife in their care on forms approved by the Division. When renewing their permit, permit holders must submit copies of these forms for the entirety of the previous year.

5.11. Social media posts made by permit holders, in-facility assistants, or facilities must in good faith work toward educating the public regarding wildlife, their habitats, their life cycles, that interaction with wildlife is never recommended, and how to safely interact with wildlife as a last resort.

§58-21-6. Rehabilitation of Rabies Vector Species.

6.1. The Director may authorize the rehabilitation of rabies vector species provided the rehabilitator has completed adequate training for RVS in accordance with IWRC guidelines and has demonstrated proof of either rabies immunization or an adequate titer against rabies within two years of the date of application for the rehabilitator and in-facility assistants.

6.2. All rehabilitation facilities handling RVS must have a rabies exposure contingency plan that must include the name and telephone number of the local county Health Department, the name of the county sanitarian, and the after-hours number for the West Virginia Department of Health. All staff working at the rehabilitation facility must be informed of and trained in the use of this plan, and the plan must be permanently posted on the premises in an easily accessible location.

6.3. Any potential rabies exposure, even among those persons who have received pre-exposure prophylaxis against rabies and/or who demonstrate an adequate titer against rabies, must be immediately reported to the county health department to determine if post-exposure treatment is necessary and if rabies testing is required. Rehabilitators shall euthanize or humanely dispatch the wildlife, using a method in accordance with AVMA guidelines that does not damage the brain, and

surrender to the Health Department any animal that must be tested for rabies subsequent to a potential exposure.

6.4. If orphans or infant RVS are combined into litters, they must be marked in such a manner as to differentiate individuals using a method at the discretion of the rehabilitator and their consulting veterinarian. If animals are combined in a litter, all animals from the combined litter must be released as near as possible to the original capture location, and within the county, of the animal(s) in the litter that were captured.

6.5. RVS other than raccoons showing signs of illness must be held for at minimum 30 days with no signs of rabies before being released in the same county, and as near as possible to the original capture site, as possible. RVS animals admitted to rehabilitation with no obvious signs of illness or injury may be immediately released to their capture location.

6.6. Raccoons showing signs of illness must be held for a minimum of 65 days with no signs of rabies before being permissible for release in the same county, and as near as possible to the original capture site, as possible. Individual racoons admitted to rehabilitation with no obvious signs of illness or injury may be immediately released to their capture location.

§58-21-7. Reporting.

7.1. Wildlife rehabilitators are required to submit an annual report to the Director. For migratory species, a copy of the Federal permit annual report will be acceptable. Reports must include the following:

7.1.1. Species admitted for rehabilitation.

7.1.2. Date admitted.

7.1.3. The county from which wildlife was admitted.

7.1.4. Presenting injury, disease condition, or problem.

7.1.5. Final disposition, including location of release if applicable, of each animal.

7.1.6. Band or tag number, where applicable.

7.1.7. Data regarding disease diagnosis or confirmation for each animal.

7.2. Wildlife rehabilitators must report any sick wildlife and any reportable wildlife disease, as defined by the Director, to the Division of Natural Resources within 24 hours of confirmation.