

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #4

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SEP 20 3 39 PM '95

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF RULE MODIFICATION OF A PROPOSED RULE

AGENCY: Bureau of Commerce - DNR TITLE NUMBER: 58

CITE AUTHORITY 20-1-7(30) & 20-2-50

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 NEW RULE BEING PROPOSED: 42 (was 2)

TITLE OF RULE BEING PROPOSED: Wildlife Scientific Collecting Permit

THE ABOVE PROPOSED LEGISLATIVE RULE, 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.



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

**SERIES 42
WILDLIFE SCIENTIFIC COLLECTING PERMIT**

§58-42-1. General

1.1. Scope and Purpose -- This legislative rule establishes procedures and requirements for the application and issuance of scientific collecting permits.

1.2. Authority - West Virginia Code 20-1-7(30) and 20-2-50

1.3. Filing Date -

1.4. Effective Date -

§58-42-2. Definitions

2.1. "Director" means the Director of the Division of Natural Resources.

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

2.3. All terms have the meaning prescribed in W.V. Code 20-1-2.

§58-42-3. Application

3.1. An applicant for a wildlife scientific collecting permit shall submit an application to the Director or his or her designated representative on the form(s) prescribed by the Director.

3.2. The application form shall contain the following information:

3.2.1. The name, address and telephone number of the applicant;

3.2.2. The applicant's institutional affiliation, if any;

3.2.3. The applicant's profession;

3.2.4. The specific manner of collection, collection dates and collection locations;

3.2.5. The purpose for which specimens are to be collected;

3.2.6. The disposition of collected specimen; and

3.2.7. A listing of species and numbers of species to be collected.

§58-42-4. Conditions of Issuance, Denial, and Revocation

4.1. The Director shall determine if an applicant possess the appropriate educational and professional experience to collect and handle wildlife designated on the permit.

4.2. Permits shall not be issued for the purpose of killing deer or bear.

4.3. The Director may place restrictive provisions on the permit to minimize the unnecessary loss of the State's wildlife. These restrictions may include:

4.3.1. Limitations on species and/or the number of individuals to be taken;

4.3.2. Limitations on the manner and/or equipment used to take wildlife; and

4.3.3. Limitations on the locations and/or time of year of collections;

4.4. The Director may deny a permit based on:

4.4.1. Inappropriate conduct of the applicant including but not limited to past or current violations of federal or state wildlife laws or rules or regulations;

4.4.2. Past noncompliance of the applicant with permit provisions; and

4.4.3. The current population status of wildlife to be collected, such as federally threatened or endangered species, or other conditions which necessitate a ban or limitation of any taking.

4.5. The Director may revoke any permit for the following reasons:

4.5.1. A permittee's noncompliance with permit provisions;

4.5.2. Violation(s) of state or federal laws or rules or regulations by the permittee;
or

4.5.3. For good cause.

4.6. The permittee must contact the Division - Law Enforcement Section prior to initiating the taking of wildlife within the time period shown on the permit if notice is required as a condition of the permit.

4.7. The permittee must contact the Division - Wildlife Resources personnel within the

time period shown on the permit, if contact is required as a condition of the permit.

4.7.1. The Division - Wildlife Resources Section contact listed on the permit shall be notified by the permittee within 24 hours of the occurrence of any unexplained deaths occurring in wildlife captured or held under his or her permit.

4.7.2. The Division of Natural Resources - Wildlife Resources Section contact listed on the permit shall be notified by the permittee within 24 hours of the occurrence of any diseased, wildlife captured or held under his or her permit.

§58-42-5. Permit Length

5.1. The Director shall determine the length of the permit, but no permit will be issued which extends beyond the end of the calendar year.

§58-42-6. Record Keeping and Reporting

5.1. The permittee must submit a report on forms prescribed by the Director to the Wildlife Resources Section no later than 45 days after the termination date of the permit.

§58-42-6. Any person who fails to obtain a scientific wildlife collecting permit to comply with any of the provisions of the permit is subject to the penalties as prescribed in West Virginia Code 20-7-9.



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West Virginia Legislature
Legislative Rule-Making Review Committee

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

Room MB47-State Capitol
Charleston, West Virginia 25305
(304) 347-4840

Senator Mike Ross, Co-Chair
Delegate Vickie Douglas, Co-Chair

September 11, 1995

Debra A. Graham, Counsel
Joe Altizer, Associate Counsel
Marie Nickerson, Admr. Assistant

NOTICE OF ACTION TAKEN BY LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

TO: Ken Hechler, Secretary of State, State Register
TO: Mr. Charles B. Felton, Jr., Director
Division of Natural Resources
Bldg. 3, Room 837
Charleston, WV 25305-0668
FROM: Legislative Rule-Making Review Committee

PROPOSED RULE: Wildlife Scientific Collecting Permit 2

The Legislative Rule-Making Review Committee recommends that the West Virginia Legislature:

- 1. Authorize the agency to promulgate the Legislative Rule (a) as originally filed (b) as modified by the agency
2. Authorize the agency to promulgate part of the Legislative rule; a statement of reasons for such recommendation is attached.
3. Authorize the agency to promulgate the Legislative rule with certain amendments; amendments and a statement of reasons for such recommendation is attached.
4. Authorize the agency to promulgate the Legislative rule as modified with certain amendments; amendments and a statement of reasons for such recommendation is attached.
5. Recommends that the rule be withdrawn; a statement of reasons for such recommendation is attached.

Pursuant to Code 29A-3-11(c), this notice has been filed in the State Register and with the agency proposing the rule.

cc: Gordon C. Robertson
Deputy Chief
Wildlife Resources Section