

WEST VIRGINIA
SECRETARY OF STATE

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #6

DO NOT MARK IN THIS BOX

FILED

May 10 3 02 PM '96

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

**NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED
BY THE WEST VIRGINIA LEGISLATURE.**

AGENCY: Bureau of Commerce, Division of Natural Resources TITLE NUMBER: 58

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

TITLE OF RULE BEING PROPOSED: Wildlife Scientific Collecting Permit

THE ABOVE RULE HAS BEEN AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE.

AUTHORIZATION IS CITED IN (house or senate bill number) H.B. 4268

SECTION §64-10-2, PASSED ON March 8, 1996

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON
THE FOLLOWING DATE: May 10, 1996



AUTHORIZED SIGNATURE



KEN HECHLER
Secretary of State

MARY P. RATLIFF
Deputy Secretary of State

STEPHEN N. REED
Deputy Secretary of State

CATHERINE FREROTTE
Executive Assistant

Telephone: (304) 558-6000
Corporations: (304) 558-8000
FAX: (304) 558-0900

WILLIAM H. HARRINGTON
Chief of Staff

JUDY COOPER
Director, Administrative Law

PENNEY BARKER
Supervisor, Corporations

STATE OF WEST VIRGINIA

SECRETARY OF STATE

Building 1, Suite 157-K
1900 Kanawha Blvd., East
Charleston, WV 25305-0770

(Plus all the volunteer
help we can get)

March 12, 1996

Gordon C Robertson
Natural Resources
Wildlife Resources Section
State Capitol Bldg 3 RM 825
Charleston, WV 25305

HB 4268 authorizing, **Title 58, Series 42, Wildlife Scientific Collecting Permit** passed the Legislature on **March 8, 1996**. It is now awaiting the Governor's signature.

You have sixty (60) days after the Governor signs **HB 4268** to final file the legislative rule with the Secretary of State's office. To final file your legislative rule, fill in the blanks on the enclosed form #6, the "Final Filing" form and file the form with our office with a promulgation history of the rule. Authorization for your legislative rule is cited in **HB 4268 Section 64-10-2(f)**. The agency may set the effective date of the legislative rule up to ninety (90) days from the date the legislative rule is final filed with the Secretary of State's office. Please have an authorized signature on the bottom line.

*****IMPORTANT: IF YOUR AGENCY HAS COMPLETED THE LEGISLATIVE RULE ON A WORD PERFECT OR WORD PERFECT COMPATIBLE COMPUTER SYSTEM THAT USES A 3 1/2" DISK, YOU MUST SUBMIT A CLEAN COPY WITH ALL UNDERLINING AND STRIKE-THROUGHS, HEADERS OR FOOTERS REMOVED, TO OUR OFFICE WHEN FINAL FILING THE RULE. REMEMBER, THE TEXT OF THE COMPUTER FILED RULE MUST BE IDENTICAL - WORD FOR WORD, COMMA FOR COMMA, WITH ALL UNDERLINING, STRIKE-THROUGHS, HEADERS OR FOOTERS REMOVED, AS THE HARD COPY AUTHORIZED BY THE LEGISLATURE. NOTICE: ALL ELECTRONIC FILINGS NOT COMPLYING WITH THIS WILL BE REJECTED AND SENT BACK TO THE AGENCY TO BE RESUBMITTED!**

After the final rule is entered into the data base, the rule will be sent back to the agency for review and proofing. The agency has ten (10) working days to send a confirmation or corrections to the Secretary of States. If the agency fails to return this within ten (10) working days, the rule will be filed in the data base with a disclaimer attached stating that the agency failed to review the rule. Following confirmation, corrections or failure to review, as the case may be, the Secretary of State shall submit to the agency a final version of the rule for their records.

If you have any questions or need any assistance, please do not hesitate to contact our office.

Thank you,
Administrative Law Division

**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 - May 10, 1996

1.4. Effective Date - May 10, 1996

§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 other 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

6.1. 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.

§58-42-7. Penalties

7.1. 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.

SENATE BILL NO. 205

(By Senators Ross, Anderson, Boley,
Buckalew, Grubb and Macnaughtan)

[Introduced January 29, 1996; referred
to the Committee on

Natural Resources;
Judiciary

58-42

6
7
8
9

10 A BILL to amend and reenact section two, article ten,
11 chapter sixty-four of the code of West Virginia, one
12 thousand nine hundred thirty-one, as amended, relating
13 to authorizing the division of natural resources to
14 promulgate legislative rules relating to a wildlife
15 scientific collecting permit.

16 Be it enacted by the Legislature of West Virginia:

17 That section two, article ten, chapter sixty-four of
18 the code of West Virginia, one thousand nine hundred
19 thirty-one, as amended, be amended and reenacted, to read
20 as follows:

21 **ARTICLE 10. AUTHORIZATION FOR BUREAU OF COMMERCE TO**
22 **PROMULGATE LEGISLATIVE RULES.**

23 **§64-10-2. Division of natural resources.**

24 (a) The legislative rules filed in the state register

1 on the fourteenth day of July, one thousand nine hundred
2 ninety-four, authorized under the authority of section
3 five-a, article eleven, chapter twenty, of this code,
4 modified by the division of natural resources to meet the
5 objections of the legislative rule-making review committee
6 and refiled in the state register on the eighth day of
7 September, one thousand nine hundred ninety-four, relating
8 to the division of natural resources (recycling assistance
9 fund grant program, 58 CSR 43 5), are authorized.

10 (b) The legislative rules filed in the state register
11 on the twelfth day of August, one thousand nine hundred
12 ninety-four, authorized under the authority of section
13 seven, article one, chapter twenty, of this code, modified
14 by the division of natural resources to meet the objections
15 of the legislative rule-making review committee and refiled
16 in the state register on the fourteenth day of October, one
17 thousand nine hundred ninety-four, relating to the division
18 of natural resources (West Virginia wildlife management
19 areas, 58 CSR 6 43), are authorized with the following
20 amendments:

21 On page four, section 6.4.3, before the word "No" by
22 inserting "Except for persons who are under sixteen years
23 of age and who have a valid West Virginia hunting
24 license,";

1 And,

2 On page four, section 6.4.3, by deleting the capital
3 letter "N" and substituting in lieu thereof the lower case
4 "n."

5 (c) The legislative rules filed in the state register
6 on the twelfth day of August, one thousand nine hundred
7 ninety-four, authorized under the authority of section
8 seven, article one, chapter twenty, of this code, modified
9 by the division of natural resources to meet the objections
10 of the legislative rule-making review committee and refiled
11 in the state register on the fourteenth day of October, one
12 thousand nine hundred ninety-four, relating to the division
13 of natural resources (special bear hunting regulations, 58
14 CSR ~~41G~~ 48), are authorized.

15 (d) The legislative rules filed in the state register
16 on the twelfth day of August, one thousand nine hundred
17 ninety-four, authorized under the authority of section
18 seven, article one, chapter twenty, of this code, modified
19 by the division of natural resources to meet the objections
20 of the legislative rule-making review committee and refiled
21 in the state register on the fourteenth day of October, one
22 thousand nine hundred ninety-four, relating to the division
23 of natural resources (wild boar hunting regulations, 58 CSR
24 ~~41G~~ 52), are authorized.

1 (e) The legislative rules filed in the state register
2 on the fifteenth day of August, one thousand nine hundred
3 ninety-four, authorized under the authority of section
4 seven, article one, chapter twenty, of this code, modified
5 by the division of natural resources to meet the objections
6 of the legislative rule-making review committee and refiled
7 in the state register on the fourteenth day of October, one
8 thousand nine hundred ninety-four, relating to the division
9 of natural resources (special fishing rule, 58 CSR ~~24~~ 61),
10 are authorized with the following amendment:

11 On page four, section 58-21-5, paragraph 5.1.1, by
12 deleting the numeral "15" and inserting in lieu thereof the
13 numeral "13".

14 (f) The legislative rules filed in the state register
15 on the second day of December, one thousand nine hundred
16 ninety-four, authorized under the authority of section
17 seven, article one, chapter twenty, of this code, modified
18 by the division of natural resources to meet the objections
19 of the legislative rule-making review committee and refiled
20 in the state register on the sixteenth day of December, one
21 thousand nine hundred ninety-four, relating to the division
22 of natural resources (rules governing public use of West
23 Virginia state parks, state forests and state wildlife
24 management areas under the division of natural resources,

1 58 CSR ~~58~~ 31), are authorized with the following amendment:

2 On page five, section 2.23, line four, before the word
3 "chartered" by inserting the word "A" and by deleting the
4 letter "s" at the end of the word "foundations".

5 (g) The legislative rules filed in the state register
6 on the twelfth day of August, one thousand nine hundred
7 ninety-four, authorized under the authority of section
8 seven, article one, chapter twenty, of this code, modified
9 by the division of natural resources to meet the objections
10 of the legislative rule-making review committee and refiled
11 in the state register on the fourteenth day of October, one
12 thousand nine hundred ninety-four, relating to the division
13 of natural resources (prohibitions when hunting and
14 trapping, 58 CSR ~~11B~~ 47) are authorized with the following
15 amendments:

16 On page two, by striking out section 3.5 and
17 renumbering the remaining sections;

18 In section 3.7, after the word "net" by inserting the
19 word "bait" and after the word "any" by inserting the word
20 "deer";

21 And,

22 By striking out subsection 3.7.1 and renumbering the
23 remaining sections.

24 (h) The legislative rules filed in the state register

1 on the thirty-first day of July, one thousand nine hundred
2 ninety-five, authorized under the authority of section
3 seven, article one, chapter twenty, of this code, modified
4 by the division of natural resources to meet the objections
5 of the legislative rule-making review committee and refiled
6 in the state register on the twentieth day of September,
7 one thousand nine hundred ninety-five, relating to the
8 division of natural resources (wildlife scientific
9 collecting permit, 58 CSR 42), are authorized.

10

11 NOTE: The purpose of this bill is to authorize the
12 Division of Natural Resources to promulgate legislative
13 rules relating to a wildlife scientific collecting permit.

14

15 Strike-throughs indicate language that would be
16 stricken from the present law, and underscoring indicates
17 new language that would be added.

8278

H. B. 4278

(By Delegates Douglas, Gallagher, Faircloth, Compton,
Linch and Riggs)

(Introduced January 29, 1996; referred to the
Committee on Agriculture and Natural Resources then
the Judiciary)

58-42

A BILL to amend and reenact section two, article ten,
chapter sixty-four of the code of West Virginia, one
thousand nine hundred thirty-one, as amended, relating
to authorizing the division of natural resources to
promulgate legislative rules relating to a wildlife
scientific collecting permit.

Be it enacted by the Legislature of West Virginia:

That section two, article ten, chapter sixty-four of
the code of West Virginia, one thousand nine hundred
thirty-one, as amended, be amended and reenacted, to read
as follows:

**ARTICLE 10. AUTHORIZATION FOR BUREAU OF COMMERCE TO
PROMULGATE LEGISLATIVE RULES.**

§64-10-2. Division of natural resources.

(a) The legislative rules filed in the state register

4278

1 on the fourteenth day of July, one thousand nine hundred
2 ninety-four, authorized under the authority of section
3 five-a, article eleven, chapter twenty, of this code,
4 modified by the division of natural resources to meet the
5 objections of the legislative rule-making review committee
6 and refiled in the state register on the eighth day of
7 September, one thousand nine hundred ninety-four, relating
8 to the division of natural resources (recycling assistance
9 fund grant program, 58 CSR 43 5), are authorized.

10 (b) The legislative rules filed in the state register
11 on the twelfth day of August, one thousand nine hundred
12 ninety-four, authorized under the authority of section
13 seven, article one, chapter twenty, of this code, modified
14 by the division of natural resources to meet the objections
15 of the legislative rule-making review committee and refiled
16 in the state register on the fourteenth day of October, one
17 thousand nine hundred ninety-four, relating to the division
18 of natural resources (West Virginia wildlife management
19 areas, 58 CSR 6 43), are authorized with the following
20 amendments:

21 On page four, section 6.4.3, before the word "No" by
22 inserting "Except for persons who are under sixteen years
23 of age and who have a valid West Virginia hunting
24 license,";

1 And,

2 On page four, section 6.4.3, by deleting the capital
3 letter "N" and substituting in lieu thereof the lower case
4 "n."

5 (c) The legislative rules filed in the state register
6 on the twelfth day of August, one thousand nine hundred
7 ninety-four, authorized under the authority of section
8 seven, article one, chapter twenty, of this code, modified
9 by the division of natural resources to meet the objections
10 of the legislative rule-making review committee and refiled
11 in the state register on the fourteenth day of October, one
12 thousand nine hundred ninety-four, relating to the division
13 of natural resources (special bear hunting regulations, 58
14 CSR ~~11G~~ 48), are authorized.

15 (d) The legislative rules filed in the state register
16 on the twelfth day of August, one thousand nine hundred
17 ninety-four, authorized under the authority of section
18 seven, article one, chapter twenty, of this code, modified
19 by the division of natural resources to meet the objections
20 of the legislative rule-making review committee and refiled
21 in the state register on the fourteenth day of October, one
22 thousand nine hundred ninety-four, relating to the division
23 of natural resources (wild boar hunting regulations, 58 CSR
24 ~~11G~~ 52), are authorized.

1 (e) The legislative rules filed in the state register
2 on the fifteenth day of August, one thousand nine hundred
3 ninety-four, authorized under the authority of section
4 seven, article one, chapter twenty, of this code, modified
5 by the division of natural resources to meet the objections
6 of the legislative rule-making review committee and refiled
7 in the state register on the fourteenth day of October, one
8 thousand nine hundred ninety-four, relating to the division
9 of natural resources (special fishing rule, 58 CSR ~~21~~ 61),
10 are authorized with the following amendment:

11 On page four, section 58-21-5, paragraph 5.1.1, by
12 deleting the numeral "15" and inserting in lieu thereof the
13 numeral "13".

14 (f) The legislative rules filed in the state register
15 on the second day of December, one thousand nine hundred
16 ninety-four, authorized under the authority of section
17 seven, article one, chapter twenty, of this code, modified
18 by the division of natural resources to meet the objections
19 of the legislative rule-making review committee and refiled
20 in the state register on the sixteenth day of December, one
21 thousand nine hundred ninety-four, relating to the division
22 of natural resources (rules governing public use of West
23 Virginia state parks, state forests and state wildlife
24 management areas under the division of natural resources,

1 58 CSR ~~58~~ 31), are authorized with the following amendment:

2 On page five, section 2.23, line four, before the word
3 "chartered" by inserting the word "A" and by deleting the
4 letter "s" at the end of the word "foundations".

5 (g) The legislative rules filed in the state register
6 on the twelfth day of August, one thousand nine hundred
7 ninety-four, authorized under the authority of section
8 seven, article one, chapter twenty, of this code, modified
9 by the division of natural resources to meet the objections
10 of the legislative rule-making review committee and refiled
11 in the state register on the fourteenth day of October, one
12 thousand nine hundred ninety-four, relating to the division
13 of natural resources (prohibitions when hunting and
14 trapping, 58 CSR ~~41B~~ 47) are authorized with the following
15 amendments:

16 On page two, by striking out section 3.5 and
17 renumbering the remaining sections;

18 In section 3.7, after the word "net" by inserting the
19 word "bait" and after the word "any" by inserting the word
20 "deer";

21 And,

22 By striking out subsection 3.7.1 and renumbering the
23 remaining sections.

24 (h) The legislative rules filed in the state register

1 on the thirty-first day of July, one thousand nine hundred
2 ninety-five, authorized under the authority of section
3 seven, article one, chapter twenty, of this code, modified
4 by the division of natural resources to meet the objections
5 of the legislative rule-making review committee and refiled
6 in the state register on the twentieth day of September,
7 one thousand nine hundred ninety-five, relating to the
8 division of natural resources (wildlife scientific
9 collecting permit, 58 CSR 42), are authorized.

10

11 NOTE: The purpose of this bill is to authorize the
12 Division of Natural Resources to promulgate legislative
13 rules relating to a wildlife scientific collecting permit.

14
15 Strike-throughs indicate language that would be
16 stricken from the present law, and underscoring indicates
17 new language that would be added.



KEN HECHLER
Secretary of State

MARY P. RATLIFF
Deputy Secretary of State

STEPHEN N. REED
Deputy Secretary of State

CATHERINE FREROTTE
Executive Assistant

Telephone: (304) 558-6000
Corporations: (304) 558-8000
FAX: (304) 558-0900

STATE OF WEST VIRGINIA

SECRETARY OF STATE

Building 1, Suite 157-K
1900 Kanawha Blvd., East
Charleston, WV 25305-0770

FILED

WILLIAM H. HARRINGTON
Chief of Staff

OCT 17 1 52 PM '96
JUDY COOPER
Director, Administrative Law

PENNEY BARKER
Supervisor, Corporations
OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

(Plus all the volunteer
help we can get)

RECEIVED
OCT 8 1996
L.E.D.

TO: ~~BILL DANIEL~~ Gordon C Robertson

AGENCY: NATURAL RESOURCES -- Wildlife Resources

FROM: JUDY COOPER, DIRECTOR, ADMINISTRATIVE LAW DIVISION

DATE: October 4, 1996

THE ATTACHED RULE FILED BY YOUR AGENCY HAS BEEN ENTERED INTO OUR COMPUTER SYSTEM. PLEASE REVIEW, PROOF AND RETURN IT WITH ANY CORRECTIONS. IF THERE ARE NO CORRECTIONS, PLEASE SIGN THIS MEMO AND RETURN IT TO THIS OFFICE. YOU WILL BE SENT A FINAL VERSION OF THE RULE FOR YOUR RECORDS.

PLEASE RETURN EITHER THE CORRECTED RULE OR THIS FORM WITHIN TEN (10) WORKING DAYS OF THE DATE YOU RECEIVED THIS REQUEST. CALL IF YOU HAVE ANY QUESTIONS.

SERIES: 42 TITLE: 58 NATURAL RESOURCES

* THE ATTACHED RULE HAS BEEN REVIEWED AND IS CORRECT.

SIGNED: Gordon C. Robertson

TITLE OF PERSON SIGNING: Deputy Chief, Wildlife Resources

DATE: 10/17/96

* THE ATTACHED RULE HAS BEEN REVIEWED AND NEEDS CORRECTING. THE CORRECTIONS HAVE BEEN MARKED.

SIGNED: _____