

WEST VIRGINIA  
SECRETARY OF STATE  
KEN HECHLER  
ADMINISTRATIVE LAW DIVISION

Form #2

Do Not Mark In this box

FILED

JUN 28 11 58 AM '96

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: Division of Natural Resources TITLE NUMBER: 58

RULE TYPE: Legislative; CITE AUTHORITY \$20-2-5d

AMENDMENT TO AN EXISTING RULE: YES \_\_\_ NO x

IF YES, SERIES NUMBER OF RULE BEING AMENDED: \_\_\_\_\_

TITLE OF RULE BEING AMENDED: \_\_\_\_\_

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: Series 66

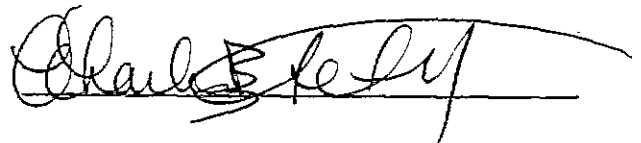
TITLE OF RULE BEING PROPOSED: Fertility Control of Free Roaming Wildlife

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON July 29, 1996 AT 4:30 p.m.

ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS.

DNR Wildlife Resources Section  
Capitol Complex, Bldg. 3, Rm 842  
Charleston, WV 25305

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



ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

FISCAL NOTE FOR PROPOSED RULE

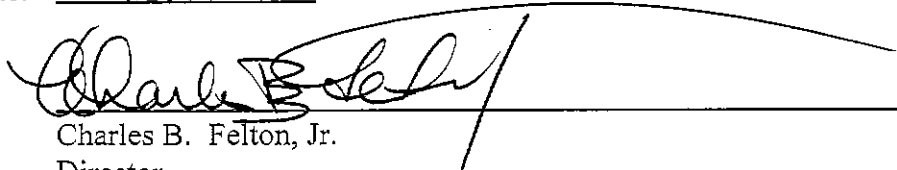
Rule Title: Fertility Control of Free Roaming Wildlife  
 Type of Rule:  X  Legislative   Interpretive   Procedural  
 Agency: Division of Natural Resources  
 Address: State Capitol Complex  
Building 3, Room 842  
1900 Kanawha Blvd.  
Charleston, WV 25305

1. Effect of Proposed Rule

	ANNUAL		FISCAL YEAR		
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
ESTIMATED TOTAL COST ..	\$	\$	\$	\$	\$
PERSONAL SERVICES					
CURRENT EXPENSE					
REPAIRS & ALTERATIONS					
EQUIPMENT					
OTHER (LICENSE FEES)					

2. Explanation of above estimates:  
No applications are anticipated within the next 5 year period.
3. Objectives of these rules:  
To establish a definition of contraceptive compounds and prescribe the application process for requesting their use.
4. Explanation of Overall Economic Impact of Proposed Rule.
  - A. Economic Impacts on State government. None
  - B. Economic Impact on Political Subdivisions; Specific Industries; Specific groups of Citizens.  
None
  - C. Economic Impact on citizens/Public at Large. None

Date: 6/28/96

  
 \_\_\_\_\_  
 Charles B. Felton, Jr.  
 Director

**RULE SUMMARY**

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

**SERIES 66  
FERTILITY CONTROL OF FREE ROAMING WILDLIFE**

This rule defines substances or compounds used as fertility control of free roaming wildlife. The rule prescribes which persons may apply to the Director of the Division of Natural Resources for the use of such substances, what criteria they must meet and how they may apply for the legal use of fertility control compounds.

**STATEMENT OF CIRCUMSTANCES REQUIRING RULE**

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

**SERIES 66  
FERTILITY CONTROL OF FREE ROAMING WILDLIFE**

Series 66, Fertility Control of Free Roaming Wildlife is required pursuant to §20-2-5d. The rule is required to prevent persons from using contraceptive compounds on free roaming wildlife within the State of West Virginia, without obtaining a permit from the Director of the Division of Natural Resources. The use of such compounds constitute management of wildlife resources, a responsibility in law of the Division of Natural Resources.

TITLE 58  
LEGISLATIVE RULE  
BUREAU OF COMMERCE  
DIVISION OF NATURAL RESOURCES

SERIES 66  
FERTILITY CONTROL OF FREE ROAMING WILDLIFE

**§58-66-1. General.**

1.1. Scope. -- The purpose of this rule is to establish regulations governing the use of fertility control or contraceptive compounds on free roaming or noncaptive wildlife within the boundaries of this State.

1.2. Authority. -- W. Va. Code §20-1-5d.

1.3. Filing Date. --

1.4. Effective Date. --

**§58-66-2. Definitions.**

2.1. All terms have the meaning prescribed to them in the Regulations Defining The Terms To Be Used Concerning All Hunting and Trapping Regulations (58 C.S.R. 46).

2.2. Contraceptive compounds are any biological substances, animal tissues, drugs, vaccines, steroids, or other chemicals that, when administered to individuals within a target species' population, produce a state of infertility or prevent the production of progeny, either temporarily or permanently.

**§58-66-3. General Application Requirements.**

3.1. Permits may only be issued to federal, state, or local government agencies, universities, or colleges, or their agents.

3.2. A written application requesting a permit must be submitted prior to the planned application of the contraceptive treatment. The application must be accompanied by a proposed management plan or research proposal that:

3.2.1. Includes the objectives of the management or research project including population objectives for management projects.

3.2.2. Is approved by the landowner or land manager responsible for the site.

3.2.3. For research proposals, is approved by the federal, state, or local government agency, university, or college responsible for the actions of the research investigator.

3.2.4. Includes an assessment of the anticipated effect of the contraceptive treatment on each target species' population at each site and on individual animals within each target population.

3.2.5. Documents potential impacts to non-target wild animal populations.

3.2.6. Documents potential threats to human health and safety.

3.2.7. Includes a description of all planned or completed management actions and an evaluation of the costs, efficiency, effectiveness, and safety of alternative methods for managing each target species' population on each site.

3.2.8. Includes a plan for monitoring short- and long- term effects of the contraceptive treatments on treated individual wild animals and each target species' population on each site.

3.2.9. Includes a certification that the contraceptive compound is approved by the federal Food and Drug Agency or, a copy of a federal Food and Drug Agency "Investigative New Animal Drug" permit.

3.2.10. The name, address and phone number of the contraceptive compound's manufacturer; the generic name of the contraceptive compound; and its chemical/biological composition.

3.2.11. The Director may request additional information if needed to determine the applicant's qualifications or to evaluate the proposed management plan or research proposal.

#### **§58-66-4 Chemical Registration/Licensing.**

4.1. Contraceptive compounds used in the State must have all required federal and state licensing, registration, or approvals for use on each wild animal species for each site requested.

#### **§58-66-5 Permit Conditions.**

5.1. Authorized contraceptives, treatment methods, application devices and equipment, individual and population monitoring requirements, reporting requirements, and other applicable restrictions must be specified as conditions of the permit.

**§58-66-6 Public Notice**

6.1. The Director may require a 30 day public notice and comment period on any application for the use of contraceptives in free roaming wildlife within the boundaries of West Virginia.