

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

Form #3

NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE
AND
FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

AGENCY: BOC - DNR Wildlife Resources TITLE NUMBER: 58

CITE AUTHORITY: §20-2-5d

AMENDMENT TO AN EXISTING RULE: YES , NO

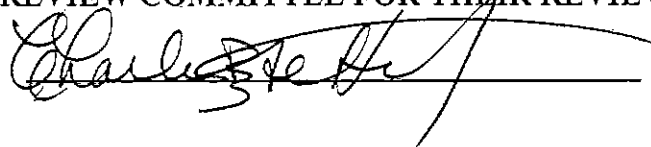
IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF NEW RULE BEING ADOPTED: 66

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

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE FOR THEIR REVIEW.



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

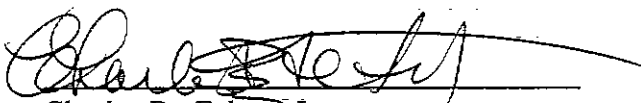
Address: State Capitol Complex
Building 3, Room 842
1900 Kanawha Blvd.
Charleston, WV 25305

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: 8/16/96


 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.

DATE: August 16, 1996

TO: Legislative Rule-Making Review Committee

FROM: BOC - DNR Wildlife Resources

LEGISLATIVE RULE TITLE: Fertility Control of Free Roaming Wildlife

1. Authorizing statute(s) citation §20-2-5d
2.
 - a. Date filed in State register with Notice of Hearing 6/28/96
 - b. What other notice, including advertising, did you give of the hearing?
Statewide news release requesting comments
 - c. Date of Hearing(s) N/A
 - d. Attached list of persons who appeared at hearing, comments received, amendments, reasons for amendments.

Attached _____ No comments received X
 - e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing: (be exact) N/A
 - f. Name and phone number(s) of agency person(s) to contact for additional information: Gordon Robertson 558-2771
3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:
 - a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided. N/A
 - b. Date of hearing: N/A
 - c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor? N/A
 - d. Attach findings and determinations and reasons:

Attached N/A

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.