

WEST VIRGINIA  
SECRETARY OF STATE  
KEN HECHLER  
ADMINISTRATIVE LAW DIVISION

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SEP 27 10 40 AM '96

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

Form #4

NOTICE OF RULE MODIFICATION OF A PROPOSED RULE

AGENCY: BOC - DNR Wildlife Resources TITLE NUMBER: 58

CITE AUTHORITY: §20-1-5d

AMENDMENT TO AN EXISTING RULE: YES , NO

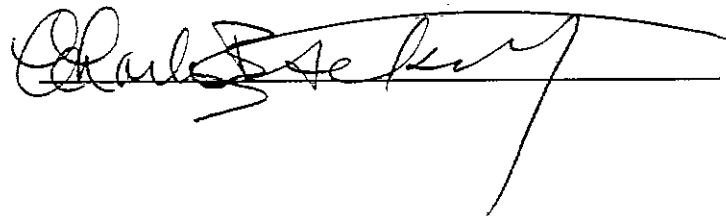
IF YES, SERIES NUMBER OF RULE BEING AMENDED: \_\_\_\_\_

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, 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.



FILED

TITLE 58  
LEGISLATIVE RULE  
BUREAU OF COMMERCE  
DIVISION OF NATURAL RESOURCES

OCT 3 3 25 PM '96

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

SERIES 66  
FERTILITY CONTROL OF FREE ROAMING WILDLIFE

**§58-66-1. General.**

1.1. Scope. -- The purpose of this rule is to establish standards 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 Division of Natural Resources rule, 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. A person may not use fertility control or contraceptive compounds without a permit issued by the Division. The Division may only issue permits to federal, state, or local government agencies, universities, or colleges, or their agents.

3.2. An applicant shall submit a written application requesting a permit 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; and

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

3.3. 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. As conditions of the permit, the Director will specify authorized contraceptives, treatment methods, application devices and equipment, individual and population monitoring requirements, reporting requirements, and other applicable restrictions.

**§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.

ANALYSIS OF PROPOSED LEGISLATIVE RULES

**Agency:** Division of Natural Resources

**Subject:** Fertility Control of Free Roaming Wildlife

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PERTINENT DATES

Filed for public comment: June 28, 1996  
Public comment period ended: July 29, 1996  
Filed following public comment period: August 16, 1996  
Filed LRMRC: August 16, 1996  
Filed as emergency:

Fiscal Impact: None

ABSTRACT

The proposed rule is new. The following is a section by section synopsis of the proposed rule.

Section 1 is the standard general section, setting forth the scope, authority, filing date and effective date of the proposed rule.

Section 2 defines terms

Section 3 provides that permits to use fertility control or contraceptive compounds may only be issued to federal, state or local government agencies, universities or colleges or their agents. An applicant for a permit must submit a written application accompanied by a proposed management plan or research proposal, the contents of which are specified.

Section 4 requires that all contraceptive compounds used in this state have all required federal and state licensing, registration or approvals for use on each wild animal species for each site requested.

Section 5 sets forth restrictions which must be specified as conditions of a permit.

Section 6 allows the Director to require a 30-day notice and public comment period on any application.

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### AUTHORITY

Statutory authority: W.Va. Code, §20-2-5d, which provides as follows:

Notwithstanding any other provisions of this code and except as specifically authorized by the director in consultation with the wildlife resources section of the division, it is unlawful for anyone to administer any chemical, biological compound or device to free roaming or noncaptive wildlife for the purpose of fertility control. The director shall promulgate legislative rules in accordance with the provisions of article three, chapter twenty-nine-a of this code whereby the director may issue such authorization.

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### ANALYSIS

I. HAS THE AGENCY EXCEEDED THE SCOPE OF ITS STATUTORY AUTHORITY IN APPROVING THE PROPOSED LEGISLATIVE RULE?

No.

II. IS THE PROPOSED LEGISLATIVE RULE IN CONFORMITY WITH THE INTENT OF THE STATUTE WHICH THE RULE IS INTENDED TO IMPLEMENT, EXTEND, APPLY, INTERPRET OR MAKE SPECIFIC?

Yes.

III. DOES THE PROPOSED LEGISLATIVE RULE CONFLICT WITH OTHER CODE PROVISIONS OR WITH ANY OTHER RULE ADOPTED BY THE SAME OR A DIFFERENT AGENCY?

No.

IV. IS THE PROPOSED LEGISLATIVE RULE NECESSARY TO FULLY ACCOMPLISH THE OBJECTIVES OF THE STATUTE UNDER WHICH THE PROPOSED RULE WAS PROMULGATED?

Yes.

V. IS THE PROPOSED LEGISLATIVE RULE REASONABLE, ESPECIALLY AS IT AFFECTS THE CONVENIENCE OF THE GENERAL PUBLIC OR OF PERSONS AFFECTED BY IT?

Yes.

VI. CAN THE PROPOSED LEGISLATIVE RULE BE MADE LESS COMPLEX OR MORE READILY UNDERSTANDABLE BY THE GENERAL PUBLIC?

No.

VII. WAS THE PROPOSED LEGISLATIVE RULE PROMULGATED IN COMPLIANCE WITH THE REQUIREMENTS OF CHAPTER 29A, ARTICLE 3 AND WITH ANY REQUIREMENTS IMPOSED BY ANY OTHER PROVISION OF THE CODE?

Yes.

VIII. OTHER.

Counsel has technical modifications to suggest.



FILED

SEP 19 10 17 AM '96

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 Vicki Douglas, Co-Chair

September 17, 1996
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: Gordon Robertson
Division of Natural Resources
Bldg. 3, Room 842
Charleston, WV 25305
FROM: Legislative Rule-Making Review Committee

PROPOSED RULE: Fertility Control of Free Roaming Wildlife

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.

Senate Bill No. 199

(By Senator(s) Ross, Anderson, Macnaughtan,  
Boley and Buckalew)

[Introduced March 3, 1997; referred to the  
Committee on Natural Resources; and then to the  
Committee on the Judiciary.]

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 a legislative rule relating to fertility  
15 control of free roaming wildlife.

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.

1           (a) The legislative ~~rules~~ rule filed in the state  
2 register on the twenty-second day of December, one thousand  
3 nine hundred ninety-four, authorized under the authority of  
4 section eleven, article two, chapter twenty of this code,  
5 modified by the division of natural resources to meet the  
6 objections of the legislative rule-making review committee  
7 and refiled in the state register on the twentieth day of  
8 July, one thousand nine hundred ninety-five, relating to  
9 the division of natural resources (commercial sale of  
10 wildlife, 58 CSR 63), ~~are~~ is authorized.

11           (b) The legislative ~~rules~~ rule filed in the state  
12 register on the twenty-second day of December, one thousand  
13 nine hundred ninety-four, authorized under the authority of  
14 section eleven, article two, chapter twenty of this code,  
15 modified by the division of natural resources to meet the  
16 objections of the legislative rule-making review committee  
17 and refiled in the state register on the twentieth day of  
18 September, one thousand nine hundred ninety-five, relating  
19 to the division of natural resources (miscellaneous permits  
20 and licenses, 58 CSR 64), ~~are~~ is authorized.

21           (c) The legislative ~~rules~~ rule filed in the state  
22 register on the thirty-first day of July, one thousand nine  
23 hundred ninety-five, authorized under the authority of

1 section twenty-two, article seven, chapter twenty of this  
2 code, modified by the division of natural resources to meet  
3 the objections of the legislative rule-making review  
4 committee and refiled in the state register on the  
5 twentieth day of September, one thousand nine hundred  
6 ninety-five, relating to the division of natural resources  
7 (boating, 58 CSR 25), ~~are~~ is authorized.

8 (d) The legislative ~~rules~~ rule filed in the state  
9 register on the thirty-first day of July, one thousand nine  
10 hundred ninety-five, authorized under the authority of  
11 section twenty-two, article seven, chapter twenty of this  
12 code, modified by the division of natural resources to meet  
13 the objections of the legislative rule-making review  
14 committee and refiled in the state register on the twenty-  
15 eighth day of October, one thousand nine hundred  
16 ninety-five, relating to the division of natural resources  
17 (special boating, 58 CSR 26), ~~are~~ is authorized, with the  
18 following amendments:

19 On page two, six, eight and nine, sections 3.6, 3.65,  
20 3.71, 3.87 3.102 and 3.109, following the words "must have  
21 the propeller removed", by inserting the words "or have the  
22 motor withdrawn to the maximum trailorable limit".

23 (e) The legislative ~~rules~~ rule filed in the state

1 register on the thirty-first day of July, one thousand nine  
2 hundred ninety-five, authorized under the authority of  
3 section fifty-a, article two, 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 twentieth day of  
7 September, one thousand nine hundred ninety-five, relating  
8 to the division of natural resources (wildlife damage  
9 control agents, 58 CSR 41), ~~are~~ is authorized.

10 (f) The legislative ~~rules~~ rule filed in the state  
11 register on the thirty-first day of July, one thousand nine  
12 hundred ninety-five, authorized under the authority of  
13 section seven, article one, chapter twenty of this code,  
14 modified by the division of natural resources to meet the  
15 objections of the legislative rule-making review committee  
16 and refiled in the state register on the twentieth day of  
17 September, one thousand nine hundred ninety-five, relating  
18 to the division of natural resources (wildlife scientific  
19 collecting permits, 58 CSR 42), ~~are~~ is authorized.

20 (g) The legislative ~~rules~~ rule filed in the state  
21 register on the thirty-first day of July, one thousand nine  
22 hundred ninety-five, authorized under the authority of  
23 section seven, article one, chapter twenty of this code,

1 modified by the division of natural resources to meet the  
2 objections of the legislative rule-making review committee  
3 and refiled in the state register on the twentieth day of  
4 September, one thousand nine hundred ninety-five, relating  
5 to the division of natural resources (prohibitions when  
6 hunting and trapping, 58 CSR 47) ~~are~~ is authorized.

7 (h) The legislative ~~rules~~ rule filed in the state  
8 register on the thirty-first day of July, one thousand nine  
9 hundred ninety-five, authorized under the authority of  
10 section seven, article one, chapter twenty of this code,  
11 modified by the division of natural resources to meet the  
12 objections of the legislative rule-making review committee  
13 and refiled in the state register on the twentieth day of  
14 September, one thousand nine hundred ninety-five, relating  
15 to the division of natural resources (special waterfowl  
16 hunting, 58 CSR 58), ~~are~~ is authorized.

17 (i) The legislative ~~rules~~ rule filed in the state  
18 register on the thirty-first day of July, one thousand nine  
19 hundred ninety-five, authorized under the authority of  
20 section seventeen-a, article one, chapter five-b of this  
21 code, modified by the division of natural resources to meet  
22 the objections of the legislative rule-making review  
23 committee and refiled in the state register on the

1 twenty-fifth day of October, one thousand nine hundred  
2 ninety-five, relating to the division of natural resources  
3 (public use of West Virginia state parks, state forests,  
4 and state wildlife management areas under the division of  
5 natural resources, 58 CSR 31), ~~are~~ is authorized,

6 "with the following amendment:

7 On page 4 section 2.22 by striking out section 2.22 in  
8 its entirety and inserting in lieu thereof the following:

9 2.22. The Director of the Division of Natural  
10 Resources is authorized to issue special use permits and  
11 enter into written agreements with persons who demonstrate  
12 to the satisfaction of the Director that they have good  
13 cause to utilize a motor driven vehicle on the Greenbrier  
14 River Trail or the North Bend Rail Trail. The Director may  
15 also authorize persons with legitimate need to utilize  
16 motorized vehicles on the trails as authorized in  
17 subdivision 2.22.3.

18 2.22.1. The director may, upon application in writing  
19 and for good cause shown, issue a written special use  
20 permit authorizing limited use of motorized vehicles on  
21 either the North Bend Rail Trail or Greenbrier River Trail.  
22 A separate permit is required for each use. Each permit  
23 shall specify the limitation on access, including such

1 things as the date, time not to exceed three days, place,  
2 method and distance the applicant will be allowed to have  
3 access to the trail. As part of the permit process, the  
4 Director shall enter into a written agreement to allow the  
5 use of motorized vehicles on the trails. The agreement  
6 shall specify the limitations of the use and require, in  
7 exchange for such use, that the persons allowed to use  
8 motorized vehicles on the trails shall maintain a specified  
9 area of the trail for a specified length of time. The  
10 terms of the maintenance portion of the agreement shall  
11 depend on the length and nature of the use.

12       2.22.2. Good cause may be shown by (a) those persons  
13 in need of limited access to adjacent land that the  
14 applicant owns or leases for agriculture purposes and who  
15 have demonstrated no other reasonable means to gain entry  
16 to the adjacent land; (b) those persons who have a vested  
17 right of ingress to and egress from the trail and (c) those  
18 persons required by law to plug or reclaim oil or gas  
19 wells.

20       2.22.3. Persons with a legitimate need to use  
21 motorized vehicles on the trails are exempt from the permit  
22 requirements. A legitimate need is limited to (a) those  
23 persons who are authorized by the Director to use motorized

1 vehicles in the management, construction, maintenance and  
2 operation of the trails and facilities and (b) persons and  
3 equipment to fight forest fires and handle other  
4 emergencies."

5 (j) The legislative ~~rules~~ rule filed in the state  
6 register on the thirty-first day of July, one thousand nine  
7 hundred ninety-five, authorized under the authority of  
8 section seven, article one, chapter twenty of this code,  
9 modified by the division of natural resources to meet the  
10 objections of the legislative rule-making review committee  
11 and refiled in the state register on the twenty-fifth day  
12 of October, one thousand nine hundred ninety-five, relating  
13 to the division of natural resources (rules governing  
14 public use of campgrounds in West Virginia state parks,  
15 state forests and state wildlife management areas under the  
16 division of natural resources, 58 CSR 32), ~~are~~ is  
17 authorized.

18 (k) The legislative ~~rules~~ rule filed in the state  
19 register on the thirty-first day of July, one thousand nine  
20 hundred ninety-five, authorized under the authority of  
21 section seven, article one, chapter twenty of this code,  
22 modified by the division of natural resources to meet the  
23 objections of the legislative rule-making review committee

1 and refiled in the state register on the twenty-fifth day  
2 of October, one thousand nine hundred ninety-five, relating  
3 to the division of natural resources (rules governing  
4 public use of swimming areas in West Virginia state parks,  
5 state forests and state wildlife management areas under the  
6 division of natural resources, 58 CSR 33), ~~are~~ is  
7 authorized.

8 (1) The legislative rule filed in the state register  
9 on the sixteenth day of August, one thousand nine hundred  
10 ninety-six, authorized under the authority of section five-  
11 d, article two, chapter twenty, of this code, modified by  
12 the division of natural resources to meet the objections of  
13 the legislative rule-making review committee and refiled in  
14 the state register on the twenty-seventh day of September,  
15 one thousand nine hundred ninety-six, relating to the  
16 division of natural resources (fertility control of free  
17 roaming wildlife, 58 CSR 66), is authorized.

18

19 NOTE: The purpose of this bill is to authorize the  
20 Division of Natural Resources to promulgate a legislative  
21 rule relating to Fertility Control of Free Roaming  
22 Wildlife.

23

24 Strike-throughs indicate language that would be  
25 stricken from the present law, and underscoring indicates  
26 new language that would be added.

09ET

1 Bill-DNR, Fertility

(By Delegate(s) Douglas, Hunt, Compton,  
Faircloth, Linch and Riggs)

2

3

4

[Introduced March 3, 1997; referred to the

5

Committee on Agriculture and Natural Resources

6

then the Judiciary.]

7

8

9

10 A BILL to amend and reenact section two, article ten,  
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16 Be it enacted by the Legislature of West Virginia:

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19 thirty-one, as amended, be amended and reenacted, to read  
20 as follows:

21 ARTICLE 10. AUTHORIZATION FOR BUREAU OF COMMERCE TO  
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2 register on the twenty-second day of December, one thousand  
3 nine hundred ninety-four, authorized under the authority of  
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5 modified by the division of natural resources to meet the  
6 objections of the legislative rule-making review committee  
7 and refiled in the state register on the twentieth day of  
8 July, one thousand nine hundred ninety-five, relating to  
9 the division of natural resources (commercial sale of  
10 wildlife, 58 CSR 63), ~~are~~ is authorized.

11           (b) The legislative ~~rules~~ rule filed in the state  
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16 objections of the legislative rule-making review committee  
17 and refiled in the state register on the twentieth day of  
18 September, one thousand nine hundred ninety-five, relating  
19 to the division of natural resources (miscellaneous permits  
20 and licenses, 58 CSR 64), ~~are~~ is authorized.

21           (c) The legislative ~~rules~~ rule filed in the state  
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5 twentieth day of September, one thousand nine hundred  
6 ninety-five, relating to the division of natural resources  
7 (boating, 58 CSR 25), ~~are~~ is authorized.

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15 eighth day of October, one thousand nine hundred  
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19 On page two, six, eight and nine, sections 3.6, 3.65,  
20 3.71, 3.87 3.102 and 3.109, following the words "must have  
21 the propeller removed", by inserting the words "or have the  
22 motor withdrawn to the maximum trailorable limit".

23 (e) The legislative ~~rules~~ rule filed in the state

1 register on the thirty-first day of July, one thousand nine  
2 hundred ninety-five, authorized under the authority of  
3 section fifty-a, article two, 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 twentieth day of  
7 September, one thousand nine hundred ninety-five, relating  
8 to the division of natural resources (wildlife damage  
9 control agents, 58 CSR 41), ~~are~~ is authorized.

10 (f) The legislative ~~rules~~ rule filed in the state  
11 register on the thirty-first day of July, one thousand nine  
12 hundred ninety-five, authorized under the authority of  
13 section seven, article one, chapter twenty of this code,  
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15 objections of the legislative rule-making review committee  
16 and refiled in the state register on the twentieth day of  
17 September, one thousand nine hundred ninety-five, relating  
18 to the division of natural resources (wildlife scientific  
19 collecting permits, 58 CSR 42), ~~are~~ is authorized.

20 (g) The legislative ~~rules~~ rule filed in the state  
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1 modified by the division of natural resources to meet the  
2 objections of the legislative rule-making review committee  
3 and refiled in the state register on the twentieth day of  
4 September, one thousand nine hundred ninety-five, relating  
5 to the division of natural resources (prohibitions when  
6 hunting and trapping, 58 CSR 47) ~~are~~ is authorized.

7 (h) The legislative ~~rules~~ rule filed in the state  
8 register on the thirty-first day of July, one thousand nine  
9 hundred ninety-five, authorized under the authority of  
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11 modified by the division of natural resources to meet the  
12 objections of the legislative rule-making review committee  
13 and refiled in the state register on the twentieth day of  
14 September, one thousand nine hundred ninety-five, relating  
15 to the division of natural resources (special waterfowl  
16 hunting, 58 CSR 58), ~~are~~ is authorized.

17 (i) The legislative ~~rules~~ rule filed in the state  
18 register on the thirty-first day of July, one thousand nine  
19 hundred ninety-five, authorized under the authority of  
20 section seventeen-a, article one, chapter five-b of this  
21 code, modified by the division of natural resources to meet  
22 the objections of the legislative rule-making review  
23 committee and refiled in the state register on the

1 twenty-fifth day of October, one thousand nine hundred  
2 ninety-five, relating to the division of natural resources  
3 (public use of West Virginia state parks, state forests,  
4 and state wildlife management areas under the division of  
5 natural resources, 58 CSR 31), ~~are~~ is authorized,

6 "with the following amendment:

7 On page 4 section 2.22 by striking out section 2.22 in  
8 its entirety and inserting in lieu thereof the following:

9 2.22. The Director of the Division of Natural  
10 Resources is authorized to issue special use permits and  
11 enter into written agreements with persons who demonstrate  
12 to the satisfaction of the Director that they have good  
13 cause to utilize a motor driven vehicle on the Greenbrier  
14 River Trail or the North Bend Rail Trail. The Director may  
15 also authorize persons with legitimate need to utilize  
16 motorized vehicles on the trails as authorized in  
17 subdivision 2.22.3.

18 2.22.1. The director may, upon application in writing  
19 and for good cause shown, issue a written special use  
20 permit authorizing limited use of motorized vehicles on  
21 either the North Bend Rail Trail or Greenbrier River Trail.  
22 A separate permit is required for each use. Each permit  
23 shall specify the limitation on access, including such

1 things as the date, time not to exceed three days, place,  
2 method and distance the applicant will be allowed to have  
3 access to the trail. As part of the permit process, the  
4 Director shall enter into a written agreement to allow the  
5 use of motorized vehicles on the trails. The agreement  
6 shall specify the limitations of the use and require, in  
7 exchange for such use, that the persons allowed to use  
8 motorized vehicles on the trails shall maintain a specified  
9 area of the trail for a specified length of time. The  
10 terms of the maintenance portion of the agreement shall  
11 depend on the length and nature of the use.

12 2.22.2. Good cause may be shown by (a) those persons  
13 in need of limited access to adjacent land that the  
14 applicant owns or leases for agriculture purposes and who  
15 have demonstrated no other reasonable means to gain entry  
16 to the adjacent land; (b) those persons who have a vested  
17 right of ingress to and egress from the trail and (c) those  
18 persons required by law to plug or reclaim oil or gas  
19 wells.

20 2.22.3. Persons with a legitimate need to use  
21 motorized vehicles on the trails are exempt from the permit  
22 requirements. A legitimate need is limited to (a) those  
23 persons who are authorized by the Director to use motorized

1 vehicles in the management, construction, maintenance and  
2 operation of the trails and facilities and (b) persons and  
3 equipment to fight forest fires and handle other  
4 emergencies."

5 (j) The legislative ~~rules~~ rule filed in the state  
6 register on the thirty-first day of July, one thousand nine  
7 hundred ninety-five, authorized under the authority of  
8 section seven, article one, chapter twenty of this code,  
9 modified by the division of natural resources to meet the  
10 objections of the legislative rule-making review committee  
11 and refiled in the state register on the twenty-fifth day  
12 of October, one thousand nine hundred ninety-five, relating  
13 to the division of natural resources (rules governing  
14 public use of campgrounds in West Virginia state parks,  
15 state forests and state wildlife management areas under the  
16 division of natural resources, 58 CSR 32), ~~are~~ is  
17 authorized.

18 (k) The legislative ~~rules~~ rule filed in the state  
19 register on the thirty-first day of July, one thousand nine  
20 hundred ninety-five, authorized under the authority of  
21 section seven, article one, chapter twenty of this code,  
22 modified by the division of natural resources to meet the  
23 objections of the legislative rule-making review committee

1 and refiled in the state register on the twenty-fifth day  
2 of October, one thousand nine hundred ninety-five, relating  
3 to the division of natural resources (rules governing  
4 public use of swimming areas in West Virginia state parks,  
5 state forests and state wildlife management areas under the  
6 division of natural resources, 58 CSR 33), are is  
7 authorized.

8 (1) The legislative rule filed in the state register  
9 on the sixteenth day of August, one thousand nine hundred  
10 ninety-six, authorized under the authority of section five-  
11 d, article two, chapter twenty, of this code, modified by  
12 the division of natural resources to meet the objections of  
13 the legislative rule-making review committee and refiled in  
14 the state register on the twenty-seventh day of September,  
15 one thousand nine hundred ninety-six, relating to the  
16 division of natural resources (fertility control of free  
17 roaming wildlife, 58 CSR 66), is authorized.

18

19 NOTE: The purpose of this bill is to authorize the  
20 Division of Natural Resources to promulgate a legislative  
21 rule relating to Fertility Control of Free Roaming  
22 Wildlife.  
23

24 Strike-throughs indicate language that would be  
25 stricken from the present law, and underscoring indicates  
26 new language that would be added.