

**WEST VIRGINIA
SECRETARY OF STATE
NATALIE E. TENNANT
ADMINISTRATIVE LAW DIVISION**

Form #3

Do Not Mark In This Box

2011 JUL 26 PM 3: 00

OFFICE OF THE SECRETARY OF STATE

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

AGENCY: Division of Natural Resources, Wildlife Resources Section TITLE NUMBER: 58

CITE AUTHORITY: Legislative

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 45A

TITLE OF RULE BEING AMENDED: Hunting, Trapping and Fishing Provisions

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

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.


Authorized Signature

QUESTIONNAIRE

(Please include a copy of this form with each filing of your rule: Notice of Public Hearing or Comment Period; Proposed Rule, and if needed, Emergency and Modified Rule.)

DATE: 7/26/11

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency Name, Address & Phone No.) DOC, DNR, Wildlife Resources Section
324 Fourth Avenue
So. Charleston, WV 25303

LEGISLATIVE RULE TITLE: Prohibitions when Hunting and Trapping

1. Authorizing statute(s) citation 20-1-7(30) and 29A-3-4

2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:
June 10, 2011

b. What other notice, including advertising, did you give of the hearing?
No public hearing was held. There was a 30 day comment period which was also advertised in a statewide news release.

c. Date of Public Hearing(s) *or* Public Comment Period ended:
July 11, 2011

d. Attach 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, title, address and phone/fax/e-mail numbers** of agency person(s) to receive all *written correspondence* regarding this rule: (Please type)

Curtis J. Taylor, Chief
DNR Wildlife Resources Section
324 Fourth Avenue
So. Charleston, WV 25303

- g. **IF DIFFERENT FROM ITEM 'F'**, please give **Name, title, address and phone number(s)** of agency person(s) who wrote and/or has responsibility for the contents of this rule: (Please type)

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 or comment period:

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
DEPARTMENT OF COMMERCE
DIVISION OF NATURAL RESOURCES**

**SERIES 45A
HUNTING, TRAPPING AND FISHING PROVISIONS**

SUMMARY:

Series 45A is no longer required as the issues addressed in the rule are covered under state law and legislative rules as described below. Language relating to the types of artificial lights which can be used for hunting coyotes at night is addressed in Natural Resources Law (Chapter 20-2-5) and the language relating to the definition of “trap” can be found in Legislative Rule 58CSR46 – “Defining the Terms to be used Concerning All Hunting and Trapping Rules”.

CIRCUMSTANCES:

This rule provides interpretation and guidance, where needed, of current natural resource statutes and rules.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Series 45A, Hunting, Trapping and Fishing Provisions

Rule Title: _____

Type of Rule:

Legislative Interpretive Procedural

Agency:

Division of Natural Resources, Wildlife Resources Section

Address:

324 Fourth Avenue
South Charleston, WV 25303

Phone Number:

304-558-2771

Email: billie.j.shearer@wv.gov

Fiscal Note Summary

Summarize in a clear and concise manner what impact this measure will have on costs and revenues of state government.

This rule is no longer required as the issues addressed in the rule are covered under state law and other legislative rules.

Fiscal Note Detail

Show over-all effect in Item 1 and 2 and, in Item 3, give an explanation of Breakdown by fiscal year, including long-range effect.

FISCAL YEAR			
Effect of Proposal	Current Increase/Decrease (use "-")	Next Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	0.00	0.00	0.00
Personal Services			
Current Expenses			
Repairs & Alterations			
Assets			
Other			
2. Estimated Total Revenues	0.00	0.00	0.00

Series 45A, Hunting, Trapping and Fishing Provisions

Rule Title: _____

Rule Title: _____

- 3. Explanation of above estimates (including long-range effect):**
Please include any increase or decrease in fees in your estimated total revenues.

No impact.

MEMORANDUM

Please identify any areas of vagueness, technical defects, reasons the proposed rule would not have a fiscal impact, and/or any special issues not captured elsewhere on this form.

Rule is no longer required.

Date: 6-10-11

Signature of Agency Head or Authorized Representative

Angel R. Moore

FILED

**TITLE 58
INTERPRETIVE RULE
DEPARTMENT OF NATURAL RESOURCES**

2011 JUL 26 PM 3:09

**SERIES 45A
HUNTING, TRAPPING AND FISHING PROVISIONS**

OFFICE OF THE ATTORNEY GENERAL
SECRETARY OF STATE

§58-45A-1. General.

by the Division of Natural Resources.

~~1.1. Scope. The purpose of this rule is to provide interpretation and guidance, where needed, of current natural resource statutes and rules.~~

~~1.2. Authority. W. Va. Code §§20-1-7(30) and §29A-3-4.~~

~~1.3. Filing Date. July 6, 2005.~~

~~1.4. Effective Date. August 6, 2005.~~

§58-45A-2. General.

~~2.1. The West Virginia Legislature, during the 2005 regular session, passed House Bill 2890. Furthermore, during the 2011 regular session passed House Bill 3000. Included in these bills is are the terms "amber, and red and green lights" which is found in §20-2-5(3). For purposes of interpretation, "amber, and red and green lights" means artificial lights which are amber, and red and green in color. These lights are legally used to hunt coyotes at night during the established season. This provision does not allow the use of laser lights or any telescopic sight that emits a laser light.~~

~~2.2. For purposes of interpretation, a "trap" is a device that is used to catch and hold animals. A trap may be legally used during the trapping season to catch fur-bearing animals and coyotes and includes leg foot hold traps, killer type or body gripping traps, box traps, encapsulating traps and snares. Legal and illegal traps are further defined in the General Trapping Rule 58CSR53.~~

§58-45A-3. Applicability.

~~3.1. The above interpretations will be used unless otherwise specified in the West Virginia Code or Legislative Rules promulgated~~