

**WEST VIRGINIA  
SECRETARY OF STATE  
KEN HECHLER  
ADMINISTRATIVE LAW DIVISION**

Form #3

**FILED**  
Do Not Mark In This Box

SEP 1 1 31 PM '00

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

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

AGENCY: BUREAU OF COMMERCE, DIVISION OF NATURAL RESOURCES TITLE NUMBER: 58

CITE AUTHORITY: §20-1-7(30)

AMENDMENT TO AN EXISTING RULE: YES XX NO       

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 46

TITLE OF RULE BEING AMENDED: Regulations Defining the Terms To Be Used Concerning All Hunting & Trapping Regs.

IF NO, SERIES NUMBER OF NEW 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.**

  
\_\_\_\_\_  
JOHN B. RADER, DIRECTOR

\$4.00

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

**SERIES 46  
REGULATIONS DEFINING THE TERMS TO BE USED  
CONCERNING ALL HUNTING AND TRAPPING REGULATIONS**

**SUMMARY**

Series 46 defines terms used in the hunting and trapping rules that are not otherwise defined in §20-1-2.

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

**SERIES 46**

**CIRCUMSTANCES**

The Division of Natural Resources seeks to change the definition of Permanently Disabled in the Lower Extremities in order to clarify those persons who are eligible to obtain a special Class Q permit to have a loaded firearm in a motor vehicle.

## FISCAL NOTE FOR PROPOSED RULE

**Rule Title:** REGULATIONS DEFINING THE TERMS TO BE USED CONCERNING ALL HUNTING AND FISHING REGULATIONS

**Type of Rule**    xx    **Legislative**    \_\_\_\_\_    **Interpretive**    \_\_\_\_\_    **Procedural**

**Agency**    Division of Natural Resources

**Address**    Building 3, Capitol Complex

Charleston, West Virginia 25305

### 1. Effect of Proposed Rule

	ANNUAL			FISCAL YEAR	
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
<b>ESTIMATED TOTAL COST</b>	0	0	0	0	0
<b>PERSONAL SERVICES</b>	0	0	0	0	0
<b>CURRENT EXPENSE</b>	0	0	0	0	0
<b>REPAIRS &amp; ALTERATIONS</b>	0	0	0	0	0
<b>EQUIPMENT</b>	0	0	0	0	0
<b>OTHER</b>	0	0	0	0	0

**2. Explanation of above estimates:** This change will have no fiscal impact on this agency or the State of West Virginia/

**3. Objective of these rules:** The objective of this rule is to change the definition of the term "Permanently disabled in the lower extremities".

**Rule Title:** REGULATIONS DEFINING THE TERMS TO BE USED CONCERNING ALL  
HUNTING AND TRAPPING REGULATIONS

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**4. Explanation of overall Economic Impact of Proposed Rule.**

**A. Economic Impact 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:** 8/30/00

**Signature of Agency or  
Authorized Representative:**



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JOHN B. RADER, DIRECTOR

**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: August 30, 2000

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: Bureau of Commerce, Division of Natural Resources  
Building 3, Capitol Complex  
Charleston, West Virginia 25305  
Telephone Number: (304) 558-2784

LEGISLATIVE RULE TITLE: REGULATIONS DEFINING THE TERMS TO BE USED  
CONCERNING ALL HUNTING AND TRAPPING  
REGULATIONS

1. Authorizing statute(s) citation §20-1-7(30)

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

July 31, 2000

b. What other notice, including advertising, did you give of the hearing

None

c. Date of Hearing(s) or Public Comment Period ended:

Public Comment period ended August 30, 2000

d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments. None

Attached \_\_\_\_\_ No comments received \_\_\_\_\_ None \_\_\_\_\_

e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing: (be exact)

July 31, 2000

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

Lt. Colonel W. B. Daniel, Deputy Chief, Division of Natural Resources, Law Enforcement

Section, Bldg. 3, Room 840, State Capitol Complex

Charleston, WV. 25305

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)

Same

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.

August 31, 2000 - 30 Day comment period

b. Date of hearing: NA

c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

NA

d. Attach findings and determinations and reasons:

Attached NA

FILED

TITLE 58  
LEGISLATIVE RULE  
BUREAU OF COMMERCE  
DIVISION OF NATURAL RESOURCES

SEP 1 1 37 PM '00

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

SERIES 46  
REGULATIONS DEFINING THE TERMS TO BE USED  
CONCERNING ALL HUNTING AND TRAPPING REGULATIONS

**§58-46-1. General.**

1.1. Scope. -- These regulations define terms to be applied to all rules concerning the regulation of hunting and trapping within the boundaries of this State.

1.2. Authority. -- W. Va. Code §20-1-7(30).

1.3. Filing Date. --

1.4. Effective Date. --

**§58-46-2. Definitions.**

2.1. "Aggregate" means the total bag or possession limit of similar kinds of game animals or game birds. For example, the possession limit for squirrels is twenty-four (24) after the third day of the open season. This could be ten (10) gray squirrels and fourteen (14) fox squirrels, or fourteen (14) gray squirrels and ten (10) fox squirrels, or any combination of twenty-four (24) squirrels, but not more than a total of six (6) per day nor more than a total of twenty-four (24) in possession.

2.2. "Antlered Deer" means deer having at least one antler that is over three (3) inches in length, as measured from the hairline.

2.3. "Antlerless Deer" means deer having no antler that is over three (3) inches in length, as measured from the hairline.

2.4. "Bait" means shelled, shucked, or unshucked corn, wheat or other grain, or any other feed or edible enticement.

2.5. "Baiting" means the direct or indirect placing, exposing, depositing, distributing, or scattering of bait so as to constitute for wildlife a lure, attraction, or enticement to or on any areas where hunters are attempting to take them.

2.6. "Bow" means a longbow, recurved bow, or compound bow that is hand-held and hand-drawn.

2.7. "Cub Bear" means a bear less than one year old which is identified by its having upper canine teeth of less than five-eighths (5/8) inch in length when measured from the gum.

2.8. "Legal Small Game Hunting Season" means the period commencing on the Saturday prior to the Saturday nearest to October 15 and ending on the last day of February of the following year.

~~2.9. "Paraplegic" means an individual afflicted with paralysis of the lower half of the body with involvement of both legs, usually due to disease of or injury to the spinal cord.~~

2.10 9. "An Individual Permanently Disabled in the Lower Extremities" means an individual who is permanently and totally disabled from the waist down and is unable to ambulate without the full-time use of a walker, two crutches or a wheelchair ~~is paraplegic, who is missing both legs, or who has a disability affecting both legs which requires permanent use of a wheelchair or crutches .~~

2.11 0. "Possession" means game taken in this State which is in any way under the control of the hunter (i.e., the total of all game in a vehicle, home freezer, commercial food locker, or other storage place).

2.12 1. "Prevailing Time" means either Eastern Standard Time or Eastern Daylight Time as established by the United States Congress.

2.13 2. "Protected" means no open season (i.e., hunting protected wildlife is illegal at all times).

2.13 2.1. Protected mammals include: elk and mountain lion and those mammals covered by federal regulations under the Endangered Species Act of 1973, as amended.

2.14 3. "Concurrent Hunting" means hunting of the same and/or other species during a legally prescribed season.

2.15 4. "Public Lands" means lands owned, leased, licensed to or under the control of the State of West Virginia or the Federal government.

All other terms have the meaning prescribed in W. Va. Code §20-1-2.