

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

Form #6

Do Not Mark In This Box

FILED

APR 30 2 37 PM '99

OFFICE OF THE WEST VIRGINIA
SECRETARY OF STATE

**NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED
BY THE WEST VIRGINIA LEGISLATURE**

AGENCY: Division of Natural Resources TITLE NUMBER: 58

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 53

TITLE OF RULE BEING AMENDED: General Trapping Rule

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: _____

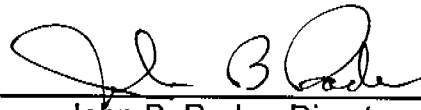
TITLE OF RULE BEING PROPOSED: _____

THE ABOVE RULE HAS BEEN AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE.

AUTHORIZATION IS CITED IN (house or senate bill number) HB 2535

SECTION §64-10-1(b) **PASSED ON** March 10, 1999

**THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS BILL BECOMES EFFECTIVE ON THE
FOLLOWING DATE:** April 30, 1999



John B. Rader, Director

\$2.60

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

**SERIES 53
GENERAL TRAPPING RULE**

Promulgation History

May 29, 1998	Filed Form #2 - Notice of Comment Period of a Proposed Rule
July 2, 1998	Filed Form #3 - Notice of Agency Approval of a Proposed Rule and Filing with the Legislative Rule-Making Review Committee
July 23, 1998	Filed Form #4 - Notice of Rule Modification of Proposed Rule

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

**SERIES 53
GENERAL TRAPPING RULE**

FILED

APR 30 2 37 PM '99

OFFICE OF THE CLERK OF THE SENATE
SECRETARY OF STATE

§58-53-1. General.

1.1. Scope. -- The purpose of this rule is to establish standards that must be complied with when trapping wildlife or furbearing animals within the boundaries of this State.

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

1.3. Filing Date. -- April 30, 1999

1.4. Effective Date. -- April 30, 1999

§58-53-2. 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).

§58-53-3. General Trapping Rules.

3.1. Trapping is prohibited in State parks and wildlife refuges, in safety zones in State forests, and in safety zones in State Wildlife Management Areas.

3.1.1. Federal regulations prohibit trapping in Harpers Ferry National Historical Park and on federally-owned land within the boundaries of the New River Gorge National River.

3.2. A trapping permit is required for State Wildlife Management Areas. This permit may be obtained from the district game biologist in the district in which the State Wildlife Management Area is situated.

3.3. All traps set during the month of February shall be water sets only for the taking of beaver, mink, or muskrat.

3.4. A trapper shall check and tend all traps each calendar day.

- 3.5. Foot snares are legal when the snare loop is at and horizontal to ground level and does not exceed six and one-half (6 1/2) inches in diameter.
- 3.6. It is illegal to use or set deadfalls for taking wildlife.
- 3.7. It is illegal to set or maintain any trap or trapping device on human foot trails or livestock paths.
- 3.8. It is illegal to set or use traps with an open jaw spread of more than six and one half (6 1/2) inches unless the trap is used under water for beaver.
- 3.9. It is illegal to use conibear or mohawk type traps for terrestrial trapping. Trappers may use conibear or mohawk type traps in water sets.
- 3.10. It is illegal to set or maintain spring pole snares.
- 3.11. It is illegal to use steel jaw traps with any teeth on or attached to them.
- 3.12. It is illegal to set or maintain any trap, trap set, or snare upon any tree, post, or other natural or man-made object at any point more than three (3) lineal feet from the surface of the earth (whether the surface is water, soil, or rock) measured at a right angle from the surface to the trap or trap set, except as provided in Subsection 3.13 of this rule.
- 3.13. The provisions of Subsection 3.12 of this rule do not apply to traps or trap sets that are set or maintained on natural earthen mounds, such as ant hills or muskrat houses, that were constructed without human assistance.
- 3.14. It is illegal to set traps or snares within 50 feet of animal or bird carcasses, or parts thereof, unless the carcasses, or parts of the carcasses, are completely covered and concealed from sight.
- 3.15. It is illegal to take beaver, fisher, mink, or muskrat by any means other than by trap.
- 3.16. It is illegal for a person to have in his or her possession an untagged bobcat, or fisher hide, or parts thereof, longer than thirty (30) days following the close of the respective trapping season.
- 3.17. If any person unintentionally traps and kills more than the limit fixed by the Division of Natural Resources rule, The Hunting and Trapping Regulations (Exempt Rule) (58 C.S.R.45), as a season possession limit, he or she shall (within twenty-four (24) hours after the trapping or killing) deliver the excess animals to a conservation officer.

3.18. Each trapper shall present bobcat or fisher pelts to an official game checking station or a representative of the Division within thirty (30) days after the close of the trapping season for that animal. The trapper shall affix a tag provided by the division to each bobcat or fisher pelt and keep the tag attached to the skin until the skin has been sold, tanned, or mounted.

3.19. It is legal to use snares for the purpose of taking furbearing animals and coyotes. A snare is defined as a trap and all rules pertaining to traps and trap sets apply to snares. All snares shall be made of multiple strand twisted steel cable.

3.20. Terrestrial snares shall be equipped with a relaxing type lock system with a breaking point of not greater than 350 pounds or a stop with a minimum loop diameter greater than or equal to 2 ½ inches. Set snares shall not have a loop diameter average greater than 15 inches. A trapper shall not use drags with terrestrial snares. He or she shall anchor them at the trap site.

LEST
H. B. 2557

58-53

1 Bill-DNR,

2

(By Delegates Hunt, Linch, Compton, Faircloth,
3 Jenkins and Riggs)

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[Introduced February 1, 1999; referred to the
5 Committee on Agriculture and Natural Resources
6 then the Judiciary.]

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10 A BILL to amend and reenact section one, 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 general
15 trapping regulations.

16 *Be it enacted by the Legislature of West Virginia:*

17 That section one, 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 as
20 follows:

21 **ARTICLE 10. AUTHORIZATION FOR BUREAU OF COMMERCE TO**

22 **PROMULGATE LEGISLATIVE RULES.**

23 **§64-10-1. Division of natural resources.**

1 (a) The legislative rule filed in the state register on
2 the first day of August, one thousand nine hundred
3 ninety-seven, authorized under the authority of section one-
4 e, article seven, chapter twenty of this code, modified by
5 the division of natural resources to meet the objections of
6 the legislative rule-making review committee and refiled in
7 the state register on the fourth day of September, one
8 thousand nine hundred ninety-seven, relating to the
9 division of natural resources (contracted extraordinary law-
10 enforcement services, 58 CSR 13), is authorized.

11 (b) The legislative rule filed in the state register on
12 the fifth day of December, one thousand nine hundred ninety-
13 seven, authorized under the authority of section seven,
14 article one, chapter twenty of this code, modified by the
15 division of natural resources to meet the objections of the
16 legislative rule-making review committee and refiled in
17 the state register on the twenty-third day of January,
18 one thousand nine hundred ninety-eight, relating to the
19 division of natural resources (falconry, 58 CSR 65), is
20 authorized.

21 (c) The legislative rule filed in the state register on
22 the twenty-fifth day of July, one thousand nine hundred
23 ninety-seven, authorized under the authority of section

1 seven, article one, chapter twenty of this code, modified by
2 the division of natural resources to meet the objections of
3 the legislative rule-making review committee and refiled in
4 the state register on the twenty-eighth day of August, one
5 thousand nine hundred ninety-seven, relating to the division
6 of natural resources (general hunting, 58 CSR 49), is
7 authorized.

8 (d) The legislative rule filed in the state register on
9 the twenty-fifth day of July, one thousand nine hundred
10 ninety-seven, authorized under the authority of section
11 seven, article one, chapter twenty of this code, relating to
12 the division of natural resources (prohibitions when hunting
13 and trapping, 58 CSR 47), is authorized.

14 (e) The legislative rule filed in the state register on
15 the twenty-seventh day of June, one thousand nine hundred
16 ninety-seven, authorized under the authority of section
17 seven, article one, chapter twenty of this code, modified by
18 the division of natural resources to meet the objections of
19 the legislative rule-making review committee and refiled in
20 the state register on the second day of December, one
21 thousand nine hundred ninety-seven, relating to the division
22 of natural resources (special boating rule for Jennings
23 Randolph lake, 58 CSR 29), is authorized.

1 (f) The legislative rule filed in the state register on
2 the twenty-fifth day of July, one thousand nine hundred
3 ninety-seven, authorized under the authority of section
4 twenty-three, article seven, chapter twenty of this code,
5 relating to the division of natural resources (special
6 boating, 58 CSR 26), is authorized.

7 (g) The legislative rule filed in the state register on
8 the twenty-fifth day of July, one thousand nine hundred
9 ninety-seven, authorized under the authority of section
10 seven, article one, chapter twenty of this code, relating to
11 the division of natural resources (special fishing, 58 CSR
12 61), is authorized.

13 (h) The legislative rule filed in the state register on
14 the twenty-fifth day of July, one thousand nine hundred
15 ninety-seven, authorized under the authority of section
16 seven, article one, chapter twenty of this code, modified by
17 the division of natural resources to meet the objections of
18 the legislative rule-making review committee and refiled in
19 the state register on the twenty-eighth day of August, one
20 thousand nine hundred ninety-seven, relating to the division
21 of natural resources (special migratory bird hunting, 58 CSR
22 56), is authorized.

23 (i) The legislative rule filed in the state register on

1 the twenty-fifth day of July, one thousand nine hundred
2 ninety-seven, authorized under the authority of section
3 seven, article one, chapter twenty of this code, modified by
4 the division of natural resources to meet the objections of
5 the legislative rule-making review committee and refiled in
6 the state register on the twenty-eighth day of August, one
7 thousand nine hundred ninety-seven, relating to the division
8 of natural resources (special waterfowl hunting, 58 CSR 58),
9 is authorized.

10 (j) The legislative rule filed in the state register on
11 the second day of July, one thousand nine hundred
12 ninety-eight, authorized by section seven, article one,
13 chapter twenty, of this code, modified by the division of
14 natural resources to meet the objections of the legislative
15 rule-making review committee and refiled in the state
16 register on the twenty-third day of July, one thousand nine
17 hundred ninety-eight, relating to the division of natural
18 resources (general trapping regulations, 58 CSR 53), is
19 authorized.

20

21 NOTE: The purpose of this bill is to authorize the
22 Division of Natural Resources to promulgate a legislative
23 rule relating to General Trapping Regulations.

24

25 Strike-throughs indicate language that would be

1 stricken from the present law, and underscoring indicates
2 new language that would be added.