

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

Form #3

Do Not Mark In This Box

2011 JUL 25 P11 3:40

WEST VIRGINIA
SECRETARY OF STATE

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

AGENCY: Dept. of Commerce, Div. of Natural Resources, Wildlife Resources Section TITLE NUMBER: 58

CITE AUTHORITY: 20-1-7(30)

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 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: 7/22/11

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: General Trapping Rule

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

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 L. 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

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Series 53, General Trapping Rule

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.

There is no change anticipated to the administrative expenditures as a result of this rule.

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

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.

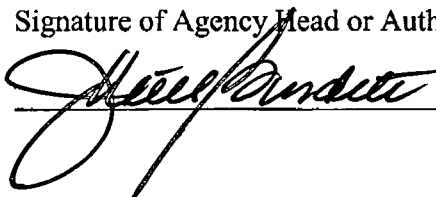
MEMORANDUM

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.

This rule makes minor changes to the existing General Trapping Rule.

Date: 7-25-11

Signature of Agency Head or Authorized Representative



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

**SERIES 53
GENERAL TRAPPING RULE**

- SUMMARY:** Series 53 revises the current General Trapping Rule. Revisions to this rule include defining foot encapsulating traps, and minor language modifications relating to beaver and otter trap sets, clarifying jaw spread measurement on foothold traps, renaming conservation officers, and language associated with body-gripping or killer-type traps for terrestrial sets.
- CIRCUMSTANCES:** This rule establishes general trapping standards that must be complied with when trapping wildlife and furbearing animals within the boundaries of this State.

FILED

2011 JUL 25 PM 3:40

TITLE 58
LEGISLATIVE RULE
DIVISION OF NATURAL RESOURCES

OFFICE OF THE CLERK
SECRETARY OF STATE

SERIES 53
GENERAL TRAPPING RULE

§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 5, 2002.

1.4. Effective Date. -- July 1, 2002.

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

3.4. 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.

3.5. It is illegal to use or set deadfalls for taking wildlife.

3.6. It is illegal to set or maintain any trap or trapping device on human foot trails or livestock paths.

3.7. It is illegal to set or use foothold traps with an open inside jaw spread of more than six and one half (6 1/2) inches unless the trap is used under water for beaver.

3.8. It is illegal to use ~~conibear or mohawk~~ body-gripping or killer-type traps with an inside jaw spread of more than five (5) inches, as measured between striking surfaces of jaws when set, for terrestrial trapping. Trappers may use ~~conibear or mohawk~~ body-gripping or killer-type traps in water sets.

3.9. It is illegal to set or maintain spring pole snares.

3.10. It is illegal to use steel jaw traps with any teeth on or attached to them.

3.11. 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 3.12 of this rule.

3.12. The provisions of Subsection 3.11 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.

3.13. 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.

3.14. It is illegal to take beaver, otter, fisher, mink, or muskrat by any means other than by trap.

3.15. 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.

3.16. 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~~ Natural Resource Police Officer.

3.17. 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.

3.18. 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.

3.19. 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

$\frac{1}{2}$ - 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.

3.20. All traps set during the month of March for the taking of beaver, shall be ~~underwater killer type traps~~ in water.

3.21. A foot encapsulating trap is defined as a trap and has the following: triggering and restraining mechanisms are enclosed within a housing; triggering and restraining mechanisms are only accessible through a single opening when set; the opening does not exceed 2 inches in diameter; and the trap has a swivel mounted anchoring system.