

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

Form #3

Do Not Mark In This Box

2012 AUG 31 PM 5:05

OFFICE WEST VIRGINIA
SECRETARY OF STATE

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

AGENCY: Department of Commerce, Division of Natural Resources, Wildlife Resources TITLE NUMBER: 58

CITE AUTHORITY: Legislative

AMENDMENT TO AN EXISTING RULE: YES NO

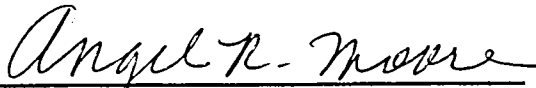
IF YES, SERIES NUMBER OF RULE BEING AMENDED: 46

TITLE OF RULE BEING AMENDED: Defining the Terms used in All Hunting an Trapping

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

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

**SERIES 46
DEFINING THE TERMS USED IN ALL HUNTING AND TRAPPING**

SUMMARY:

Series 46 revises the current rule relating to Defining the Terms Used in All Hunting and Trapping Rules. Modifications to this rule include removing language relating to amber, red and green lights for hunting coyotes at night; as well as minor technical changes. Language is no longer required as all color artificial lights can now be used for hunting fox and coyotes at night during the specified hunting seasons.

CIRCUMSTANCES:

This rule defines terms to be applied to all rules concerning the regulation of hunting and trapping within the boundaries of this State.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Series 46, Defining the Terms Used in All Hunting and Trapping

Rule Title: _____
 Type of Rule: Legislative Interpretive Procedural
 Agency: Division of Natural Resources, Wildlife Resources Section
 Address: 324 Fourth Avenue
So. 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

Series 46, Defining the Terms Used in All Hunting and Trapping

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.

This rule removes language associated with the use of amber, red or green lights for the hunting of coyotes at night. Modification to Chapter 20 - Natural resources Law passed during the 2012 Legislative Session permit the use of "any" color artificial light for hunting coyotes and fox at night during specified seasons. In addition, language was incorporated into the definition for "baiting" as it relates to how long an area is considered baited after the bait has been removed from the site.

Date: 8/31/2012

Signature of Agency Head or Authorized Representative

Angel R. Moore

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: 8/31/2012

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: Defining the Terms used in All Hunting and Trapping

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, 2012

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:
August 31, 2012

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

TITLE 58
LEGISLATIVE RULE
BUREAU OF COMMERCE
DIVISION OF NATURAL RESOURCES

FILED

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SERIES 46
DEFINING THE TERMS USED IN
ALL HUNTING AND TRAPPING

OFFICE OF THE VIRGINIA
SECRETARY OF STATE

§58-46-1. General.

1.1. Scope. -- This rule defines 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. -- ~~April 30, 2012.~~

1.4. Effective Date. -- ~~April 30, 2012.~~

~~1.5. Repeal and Replace — This legislative rule repeals and replaces Defining The Terms To Be Used Concerning All Hunting And Trapping Rules, Title 58, Series 46, effective July 16, 2001.~~

§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. "Amber, red or green lights" means artificial lights which are amber, red or green in color. These lights are legally used to hunt coyotes at night during the established season.~~

~~2.32. "Antlered Deer" means deer having at least one antler that is over three (3) inches in length, as measured from the hairline.~~

~~2.43. "Antlerless Deer" means deer having no antler that is over three (3) inches in length, as measured from the hairline.~~

~~2.54. "Bait" means shelled, shucked, or unshucked corn, wheat or other grain, or any other feed or edible enticement.~~

~~2.65. "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. An area is considered baited for 10 days after the removal of the bait.~~

~~2.76. "Concurrent Hunting" means hunting of the same and/or other species during a legally prescribed season.~~

~~2.87. "Individual Permanently Disabled in the Lower Extremities" means an individual who is permanently and totally disabled due to paralysis or disease in the lower half of the body, which makes it impossible to ambulate successfully more than two hundred feet without assistance.~~

2.98. "Licensed Adult" is an individual who has attained the age of 18 years, and possesses a valid West Virginia hunting and trapping license or is exempt from having to purchase a West Virginia hunting and trapping license.

2.109. "Muzzle-loader", for the purpose of deer hunting, means a single shot muzzle-loading firearm having a bore diameter of not less than thirty-eight one-hundredths of an inch.

2.110. "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).

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

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

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

2.113. "Public Lands" means lands owned, leased, licensed, managed under cooperative agreement with or under the control of the Division for wildlife management purposes.

2.114. "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. The term 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 Division's Rule, General Trapping Rule 58CSR53.

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